

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

Cr1.MC.No. 1695 of 2015

IN C.C NO. 232/2010 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT, PARAVOOR

CRIME NO. 180/2007 OF CHATHANNUR POLICE STATION, KOLLAM

PETITIONERS/ACCUSED 1,3 AND 9:

1. BIJU, AGED 25 YEARS,
S/O.SALIM, POOVANVILA PUTHAN VEEDU,
VELICHIKKALA CHERRI, PALLIMON VILLAGE, KOLLAM.
2. BADARUDEEN, AGED 33 YEARS,
S/O.ISMAILKUNJU, OTTAPLAVILA VEEDU,
VELICHIKALA CHERRI,
PALLIMON VILLAGE, KOLLAM.
3. RAFEEQ, AGED 27 YEARS,
S/O.ABOOBAKER, NASYATHIYIL, VELICHIKALA CHERRI,
PALLIMON VILLAGE, KOLLAM.

BY ADV. SRI.V.RENJITH KUMAR

RESPONDENT/STATE:

STATE OF KERALA
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
CHATHANNUR POLICE STATION, KOLLAM
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY SR. PUBLIC PROSECUTOR SMT.SAREENA GEORGE.P

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 17-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 1695 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE 1- COPY OF THE FIR IN CRIME 180/2007 OF CHATHANNUR
POLICE STATION, KOLLAM.

ANNEXURE 2- COPY OF THE CHARGE SHEET IN CRIME 180/2007 OF
CHATHANNUR POLICE STATION, KOLLAM.

ANNEXURE 3- COPY OF THE JUDGMENT DATED 27.02.2010 IN C.C.NO.410
OF 2007 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE'S
COURT AT PARAVOOR, KOLLAM.

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.1695 of 2015

Dated this the 17th day of March, 2015

O R D E R

The petitioners are the original accused Nos.1, 3 and 9 C.C No. 410/2007 of Judicial First Class Magistrate Court, Paravoor. The offences involved in the case are under Sections 143, 147, 447, 427 and 118 r/w 149 of the Indian Penal Code. The original accused Nos.2, 4 to 7, 10, 11 and 13 to 23 faced trial before the trial court and obtained a judgment of acquittal under Section 248(1) of the Code of Criminal Procedure when all the material witnesses including the first informant/de facto complainant turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. The prosecution examined PW1 to PW3 in the said case including the first informant/de facto complainant and also marked Exts.P1 to P4. None of the material witnesses examined in the case supported the prosecution. In such a circumstance, examination of the others was dispensed with and evidence was closed by the trial court. In the absence of any evidence or incriminating circumstance, the learned Magistrate acquitted the accused Nos.2, 4 to 7, 10, 11 and 13 to 23. The case against the petitioners herein was split up and refiled, and it is now pending as C.C No.232/2010 before the

Judicial First Class Magistrate Court, Paravoor. The petitioners now seek orders quashing the prosecution as against them on the ground that the very substratum of the prosecution case is totally lost by the acquittal of the others, and continuance of prosecution against them will not serve any purpose. Annexure 3 judgment in C.C No.410/2007 shows that all the material witnesses examined by the prosecution in the said case turned hostile in view of an amicable settlement made by the parties out of court. In such a situation, it is quite definite that the prosecution cannot in any manner improve the case and the witnesses also cannot in any manner help the prosecution, if the case against the petitioners goes to trial. In short, such proceeding will be a sheer waste of time.

In the result, this petition is allowed. The prosecution against the petitioners in C.C No.232/2010 before the Judicial First Class Magistrate Court, Paravoor will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioners will stand released from prosecution.

**P.UBAID
JUDGE**

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