

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

Crl.MC.No. 1704 of 2015

IN CC 154/2010 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT,
PARAVOOR

CRIME NO. 170/2007 OF CHATHANNOOR POLICE STATION, KOLLAM

PETITIONERS/ACCUSED 1, 16 AND 22:

1. SHEMIR, AGED 23 YEARS,
S/O. SUBAIR KUTTY, NEDUVILA VEEDU,
VELICHIKKALA CHERRI,
PALLIMON VILLAGE, KOLLAM.
2. SIYAD, AGED 18 YEARS,
S/O. SIDDIQUE, SAKKIR MANZIL, VELICHIKALA CHERRI,
PALLIMON VILLAGE, KOLLAM.
3. BAIJU, AGED 25 YEARS,
S/O. SALIM, POOVANVILA VEEDU, VELICHIKALA CHERI,
PALLIMON VILLAGE, KOLLAM.

BY ADV. SRI.V.RENJITH KUMAR

RESPONDENT/STATE:

STATE OF KERALA
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
CHATHANUR 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. 1704 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE 1: COPY OF THE FIS AND FIR IN CRIME NO.170/2007 OF CHATHANNUR POLICE STATION, KOLLAM

ANNEXURE 2: COPY OF THE FINAL REPORT IN CRIME NO.170/2007 OF CHATHANNUR POLICE STATION, KOLLAM

ANNEXURE 3: COPY OF THE JUDGMENT DATED 30.1.2010 IN C.C NO.649/2007 ON THE FILE OF THE J.F.C.M COURT, PARAVOOR, KOLLAM.

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.1704 of 2015

Dated this the 17th day of March, 2015

O R D E R

The petitioners herein are the original accused Nos.1, 16 and 22 in C.C No.649/2007 of the Judicial First Class Magistrate Court, Paravoor. The offences involved in the case are under Sections 143, 147 and 447 r/w 149 of the Indian Penal Code. The original accused Nos. 2 to 8, 11 to 15, 17, 19 to 21 faced trial before the trial court and obtained a judgment of acquittal under Section 255(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 three witnesses 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 to 8, 11 to 15, 17, 19 to 21. The case against the petitioners herein was split up and refiled, and it is now pending as

C.C No.154/2010 before 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.649/2007 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.154/2010 before 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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