

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

Crl.MC.No. 1753 of 2015 ()

**CC 287/2015 of JUDICIAL FIRST CLASS MAGISTRATE COURT-III, PUNALUR
CRIME NO. 557/2008 OF PATHANAPURAM POLICE STATION, KOLLAM DISTRICT**
=====

PETITIONER/5TH ACCUSED:

**SHANAVAS, AGED 29 YEARS
S/O.SHAHUTHAMEED, RESIDING AT SHANAVAS MANZIL
NEAR THYCAVU, PATHIRICKAL MURI, PATHANAPURAM VILLAGE
PUNALUR, KOLLAM DISTRICT.**

BY ADV. SRI.V.A.AJIVAS

RESPONDENT/COMPLAINANT:

**STATE OF KERALA
REPRESENTED BY THE SUB INSPECTOR OF POLICE
PATHANAPURAM POLICE STATION
KOLLAM DISTRICT THROUGH THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**

BY Sr. PUBLIC PROSECUTOR SMT. SAREENA GEORGE P.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 18-03-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

**ANNEUXRE A1: THE TRUE COPY OF THE FINAL REPORT IN CRIME NO. 557/2009 OF
PATHANAPURAM POLICE STATION IN KOLLAM DISTRICT PENDING AS
CC NO. 287/2015 (CC NO. 70/2009) BEFORE THE HONOURABLE
JUDICIAL FIRST CLASS MAGISTRATE COURT-III, PUNALUR, KOLLAM.**

**ANNEXURE A2: THE CERTIFIED COPY OF THE JUDGMENT IN CC NO. 70/2009 OF
HONOURABLE JUDICIAL FIRST CLASS MAGISTRATE COURT-III,
PUNALUR, KOLLAM.**

RESPONDENT'S EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.1753 of 2015

Dated this the 18th day of March, 2015

O R D E R

The petitioner herein is the original 5th accused in C.C.70/2009 of the Judicial First Class Magistrate Court-III, Punalur. The offences involved in this case are under Sections 324, 326 and 34 IPC. The original accused Nos. 1 to 4 faced trial before the trial court and obtained a judgment of acquittal under Section 248(1) Cr.P.C., when all the material witnesses turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. The prosecution examined four witnesses in the said case and also marked Ext.P1. 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.1 to 4. The case against the petitioner herein was split up and refiled as C.C.287/2015. The petitioner now seeks orders quashing the prosecution as against him 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 him will not serve any purpose. Annexure-A2 judgment in C.C.70/2009 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 petitioner 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 petitioner in C.C.287/2015 of the Judicial First Class Magistrate Court-III, Punalur will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution, and the bail bond, if any, executed by him will stand discharged.

Sd/-

P. UBAID, JUDGE

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