

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

Cr1.MC.No. 701 of 2013

IN C.C NO.384/2006 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT,
CHANGANASSERY

PETITIONERS:

1. ANJU RAJAN,
D/O.RAJAN VARGHESE, PANACKAMATTATHIL VEEDU,
PAKKIL KARA, PAKKIL AREA, NATTAKOM VILLAGE.
2. K.V.THOMAS,
S/O.VARGHESE, HOUSE NO.1390, T/C NO.70,
WARD NO.2, NANDANCODE ARA, KAVADIYAR VILLAGE,
THIRUVANANTHAPURAM.
3. VARGHESE JOHN,
S/O.VARGHESE, HOUSE NO.335, WARD NO.11,
NIRANAM KARA, NIRANAM VILLAGE, THIRUVALLA TALUK.
4. JOSE VARGHESE,
S/O.VARGHESE, PANACKAMATTATHIL VEEDU, NIRANAM KARA,
NIRANAM VILLAGE, THIRUVALLA TALUK.

BY ADV. SRI.SHEJI P.ABRAHAM

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. PRAVEEN,
S/O.PARAMESWARAN NAIR, MANIMANDIRAM HOUSE,
NATTASSERY KARA, PERUMBAIKKAD VILLAGE,
KOTTAYAM DISTRICT. 686 028.
3. SWAPNA,
W/O.JAYAKUMR, KANIMEL PUTHENVEETIL,
THAMARAKKULAM VILLAGE, THAMARAKKULAM KARA
MAVELIKKARA TALUK - 691 014.
4. SAJU
S/O.ABRAHAM, THEVAN KUNNEL HOUSE, RAMAPURAM VILALGE
KOTTAYAM DISTRICT - 686 591.

5. SANDHYA NAIR,
D/O.RAJENDRAN NAIR, ATHIRA HOUSE,
SPICES STREET,
ERNAKULAM VILLAGE - 682 018.

6. ATHEESHA,
D/O.THOMAS, HOUSE NO.48, SANTHI NAGAR,
KOLLAM NORTH VILLAGE-691 001.

R1 BY PUBLIC PROSECUTOR SMT.P.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 25-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 701 of 2013

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A1: COPY OF THE FINAL REPORT IN C.C. NO.384/006 ON THE
FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, CHANGANASSERY

ANNEXURE A2: COPY OF THE JUDGMENT IN C.C NO.384/2066 ON THE FILE
OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, CHANGANASSERY.

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.701 of 2013

Dated this the 25th day of March, 2015

O R D E R

The petitioners herein are the original accused Nos.3 to 6 in C.C No.384/2006 of the Judicial First Class Magistrate Court, Changanassery. The offence involved in the case is under Section 420 of the Indian Penal Code. The original accused Nos. 1 and 2 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 four witnesses in the said case including the first informant/de facto complainant. 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 and 2. In para 13 of the Annexure A2 judgment, the trial

court found thus:

“In view of the fact that the matter was settled out of court and Cws.1 to 4 received their money back, I am also of the view that no purpose will be served by examining remaining witnesses. Hence remaining witnesses are dispensed with and evidence is closed.”

2. The case against the petitioners herein was split up and refiled and it is now pending as C.C No.506/2011. 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 A2 judgment in C.C No.384/2006 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.506/2011 of the Judicial First

Class Magistrate Court, Changanassery 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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