

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

Crl.MC.No. 1788 of 2015 ()

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CC 1822/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT-II,HOSDRUG
CRIME NO. 127/2012 OF BEKAL POLICE STATION, KASARGOD DISTRICT
=====**

PETITIONER/ACCUSED NO.3:

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MUNEER T K, AGED 25 YEARS
S/O.ABDUL KHADER, THEKKEKUMIL HOUSE, KALLINGAL
PALLIKKARA VILLAGE, KASARAGOD DISTRICT.**

**BY ADVS.SRI.M.V.BOSE
SRI.VINOD MADHAVAN
SMT.NISHA BOSE**

RESPONDENT:

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STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**

BY Sr.PUBLIC PROSECUTOR SMT. SAREENA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 19-03-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

**ANNEXURE-A1 TRUE COPY OF THE FINAL REPORT IN CRIME NO.127/12 FILED BY
SUB INSPECTOR OF BEKAL POLICE BEFORE THE JUDICIAL FIRST
CLASS MAGISTRATE COURT II,HOSDURG.**

**ANNEXURE-A2 COPY OF THE JUDGMENT DATED 27.11.2014 IN C.C.887/2012 ON THE
FILE OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS.**

RESPONDENT'S EXHIBITS

NIL

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

SD

P. UBAID, J.

Crl.M.C.No.1788 of 2015

Dated this the 19th day of March, 2015

O R D E R

The petitioner herein is the 3rd accused in C.C. No.1822/2014 of the Judicial First Class Magistrate Court-II, Hosdurg. The offences involved in this case are under Sections 143, 147, 148, 341, 323 324 and 506(ii) read with 149 IPC. The original accused Nos.1,2,4 and 5 faced trial before the trial court, and obtained a judgment of acquittal under Section 248(1) Cr.P.C. In the absence of any incriminating evidence. The prosecution examined 2 witnesses in the said case and also marked Ext.P1. None of the witnesses 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.1,2,4 and 5. The case against the petitioner herein was split up and refiled as C.C.No.1822/2014. 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.887/2012 shows that 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.No.1822/2014 of the Judicial First Class Magistrate Court-II, Hosdurg, will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution.

Sd/-

P. UBAID, JUDGE

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