

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

CrI.MC.No. 1797 of 2015 ()

**CC 434/1999 of CHIEF JUDICIAL MAGISTRATE COURT, KALEPETTA
CC 713/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT, MANANTHAVADY
CRIME NO. 52/1997 OF KALPETTA POLICE STATION, WAYANAD DISTRICT**
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PETITIONER/2ND ACCUSED:

**ABDULLA, AGED 46 YEARS
S/O. ALI, PALLIYAL VEEDU, 7TH MILE
THARUVANA, MANANTHAWADY, WAYANAD DISTRICT.**

BY ADV. SMT.CELINE JOSEPH

RESPONDENT/COMPLAINANT:

**STATE OF KERALA
SUB INSPECTOR OF POLICE, KALPETTA
REPRESENTED BY 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 19-03-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

ANNEXURE A1	COPY OF THE JUDGMENT DATED 09.12.2005 IN C.C.NO.434/1999 OF THE CHIEF JUDICIAL MAGISTRATE COURT, KALPETTA
ANNEXURE A2	COPY OF THE DEPOSITION OF THE PW1 IN C.C.NO.713/2014
ANNEXURE A2(a)	COPY OF THE DEPOSITION OF THE PW2 IN C.C.NO.713/2014
ANNEXURE A2(b)	COPY OF THE DEPOSITION OF THE PW3 IN C.C.NO.713/2014
ANNEXURE A3	COPY OF THE DEPOSITION OF PW1 IN C.C.NO.434/1999
ANNEXURE A4	COPY OF THE FIR IN CRIME NO.52/97 OF KALPETTA POLICE STATION
ANNEXURE A5	COPY OF THE CHARGE SHEET IN CRIME NO.52/97 OF KALPETTA POLICE STATION

RESPONDENT'S EXHIBITS

NIL

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

SD

P. UBAID, J.

Crl.M.C.No.1797 of 2015

Dated this the 19th day of March, 2015

O R D E R

The petitioner herein is the original 2nd accused in C.C.No.434/1999 of the Chief Judicial Magistrate Court, Kalpetta. The offences involved in the case are under Sections 465, 468, 420 and 471 read with 34 IPC. The accused Nos.1 and 3 to 6 faced trial before the learned Magistrate, and obtained a judgment of acquittal on 09.12.2005, when the prosecution failed to adduce any satisfactory evidence proving the offences alleged. The case against the petitioner was split up and refiled as C.C.No.362/2000, and later, it was made over to Judicial First Class Magistrate Court-II, Mananthavady, where it was filed as C.C.No.713/2014. The petitioner now seeks orders quashing the prosecution against him on the ground that the very substratum of the prosecution case stands totally lost by the acquittal of the others in C.C.No.434/1999. Annexure-A1 is the copy of the judgment in C.C.No.434/1999. The prosecution examined seven witnesses including the complainant, and marked Exts.P1 to P11 in that case. Only the complainant gave some evidence

regarding the incident alleged. The others did not support the prosecution. Finding that the uncorroborated evidence given by the complainant is really worthless, and that the prosecution has suppressed the earlier statement given by the complainant, the learned Magistrate found the others not guilty. In paragraph 15 of the Annexure-A1 judgment, the learned Magistrate found thus:

“15. In order to substantiate the offence of 471 IPC, the prosecution has to prove that the accused used a forged document as genuine. There is nothing in evidence to show that Ext.P3 R.C. Book was forged by the accused and except the interested testimony of PW1, there is no other evidence to show that the accused has used Ext.P3 R.C. Book as genuine.”

Again, as regards the evidence given by the complainant, and the First Information Statement, the learned Magistrate found thus:

“.....According to him the statement given and signed by him and recorded by the police and has not seen by him thereafter. If the case of PW1 is believed as correct is to be presumed that the original FI Statement furnished by PW1 was suppressed by the prosecution and Ext.P1 is not the FI Statement as claimed by the prosecution.....”

Concluding the findings, the learned Magistrate found thus in paragraph 16:

“.....Therefore from the above discussions I find that

absolutely no evidence to prove the offences alleged against the accused. Therefore I find that prosecution has failed to prove the offences alleged against the accused beyond shadow of reasonable doubt.”

2. On perusal of the Annexure-A1 judgment, I find that the prosecution cannot in any manner improve the case against the petitioner herein, if the case goes to trial. I find that the very substratum of the prosecution case stands totally lost, and continuance of prosecution against the petitioner will be a sheer waste of time.

In the result, this petition is allowed. The prosecution against the petitioner in C.C.No.713/2014 of the Judicial First Class Magistrate Court-II, Mananthavady, will stand quashed under Section 482 Cr.P.C.

Sd/-

P. UBAID, JUDGE

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