

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 193

Crl.MC.No. 1809 of 2015

CRIME NO. 77/2005 OF PARAPPANGADI POLICE STATION , MALAPPURAM

PETITIONER(S)/ACCUSED NO. 6:

**SALEESH P.
S/O.VASU, OKKADAVATH VEEDU,
KACHERIKUNNU VILLAGE,
THIRURANGADI TALUK, MALAPPURAMA.**

**BY ADVS.SRI.ALAN PAPALI
SRI.J.VIMAL
SRI.ANTONY ROBERT DIAS**

RESPONDENT(S)/COMPLAINANT:

**STATE OF KERALA, (S.I OF POLICE,
CRIME NO. 77/2005 OF PARAPPANANGADI POLICE STATION),
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI - 682 031.**

BY PUBLIC PROSECUTOR SRI.GITHESH. R

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 06-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' ANNEXURES

**ANNEXURE 1: TRUE COPY OF THE FIR DATED 21/03/2005 IN CRIME NO. 77/2005 OF
PARAPPANANGADI POLICE STATION.**

**ANNEXURE 2: TRUE COPY OF THE FINAL REPORT DATED 13/05/2005 IN CRIME NO.
77/2005 OF PARAPPANANGADI POLICE STATION.**

**ANNEXURE 3: TRUE COPY OF THE PETITION TO WITHDRAW THE CASE UNDER
SECTION 321 OF CR.P.C. IN CMP NO.1488/2007 DATED 05/10/2007 FILED
BY THE ADDITIONAL PUBLIC PROSECUTOR, MANJERI.**

**ANNEXURE 4: TRUE COPY OF THE JUDGMENT DATED 22/10/2007 IN SC NO. 381/2006
OF THE COURT OF THE ADDITIONAL SESSIONS JUDGE (ADHOC-I),
MANJERI.**

RESPONDENT(S)' ANNEXURES

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

ALEXANDER THOMAS, J.

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Dated this the 6th day of July, 2015.

ORDER

The petitioner herein is the 6th accused in Crime No.77/2005 of Parappanangadi Police Station. The above captioned Criminal Miscellaneous Case is filed to quash Anx-II final report/charge sheet in Crime No.77/2005 of Parappanangadi Police Station registered for offences alleged under Secs.143, 147, 148, 188, 427, 324, 307 r/w 149 IPC, which is now pending as C.P.No.109/2005 of Judicial First Class Magistrate court, Parappanangadi, on the ground that the substratum of the prosecution case has been lost with the filing of withdrawal petition against all other accused persons due to the consequent acquittal of other accused persons under Sec.321 of the Cr.P.C.

2. The prosecution allegation is that the accused persons formed themselves into an unlawful assembly in furtherance of a common object to cause damages to shop owners and other

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persons, indulged in the act of rioting armed with deadly weapons, refused to obey the order of police to disburse or to abstain from indulging in illegal activities of causing obstruction or annoyance or injury to any person, and also committed mischief by damaging the articles in the shops of neighbouring shop owners and thereby committed the above offences.

3. Altogether there were 19 accused persons in the committal court and all the accused persons except 6th accused and 15th accused appeared and the case against them was committed to the Sessions Court and numbered as S.C.No.381/2006. Later, the case against the 15th accused was also committed to the Sessions Court and numbered as S.C.No.12/2007. Thereafter, the accused in S.C.No.12/2007 was clubbed with S.C.No.381/2006. After the framing of charge against the accused persons, the prosecutor preferred a petition to withdraw the case under Sec.321 Cr.P.C. Thereafter, the court below allowed Anx-III petition filed by the Additional Public Prosecutor, Manjeri and acquitted accused Nos.1 to 5 and 7 to 19 in the final report/charge sheet under Sec.321

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Cr.P.C. The case against the petitioner is now pending as C.P.No.109/2005 on the file of the Judicial First Class Magistrate Court, Parappanangadi. It is pointed out that the petitioner could not appear before the committal court since he was employed outside. The petitioner left India on 13.5.2005. He was working in Abudhabi Ship Building Company as a helper. It is thus contended that since all other accused persons has been acquitted, the continuation of criminal proceedings as against the petitioner would constitute an abuse of the process of the court especially when the State itself is not interested in prosecuting the case. It is in the light of these aspects that the prayer for quashment of the impugned criminal proceedings has been made in the instant Crl.M.C.

4. Since the court below has allowed the petition filed by the prosecutor to withdraw the case as evident from Anx-IV order, it can be seen that the substratum of prosecution case has been shattered by the acquittal of the co-accused. No meaningful purpose will be subserved by prolonging the agony of the impugned criminal proceedings now pending against the petitioner. Any further continuance of the impugned criminal

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proceedings would amount to mere wastage of precious resources of the State including that of the judiciary.

5. In this view of the matter, it is ordered in the interest of justice that the impugned Annexure-II Final Report/Charge Sheet filed in Crime No.77/2005 of Parappanangadi Police Station which is now pending as C.P.No.109/2005 on the file of the Judicial First Class Magistrate Court, Parappanangadi pending against the petitioner and all further proceedings arising therefrom pending against the petitioner stand quashed.

With these observations and directions, this CrI.M.C stands disposed of.

ALEXANDER THOMAS,
Judge.

bkn/-