

**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**

**Crl.MC.No. 1858 of 2015 ()**  
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**IN LP 11/2007 of ADDITIONAL DISTRICT COURT (ADHOC), ERNAKULAM  
CRIME NO. 44/2001 OF MUNAMBAM POLICE STATION, ERNAKULAM**

**PETITIONER(S)/ACCUSED:**  
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**KRISHNAKUMAR  
S/O.KRISHNANKUTTY, ARUVIPARAMBIL HOUSE  
MUNAMBAM KUZHUPPILLY VILLAGE, ERNAKULAM DISTRICT.**

**BY ADV. SRI.C.P.PEETHAMBARAN**

**RESPONDENT(S)/STATE, DEFACTO COMPLAINANT & VICTIMS:**  
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- 1. STATE OF KERALA  
REPRESENTED BY THE PUBLIC PROSECUTOR  
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. LEELADHARAN, AGED 63 YEARS  
S/O.DAMODHARAN, AMMANCHERRY VEETIL, AYYAMPILLY  
KUZHUPPILLY, ERNAKULAM DISTRICT.**
- 3. SANTHOSH, AGED 49 YEARS  
S/O.CHANDRAMADHANAN, VENMALASSERY HOUSE  
KUZHUPPILLY ERNAKULAM DISTRICT.**
- 4. SIVADAS, S/O.VIJAYAN, AGED 56 YEARS  
THALAPPILLY HOUSE, OPP.GOVERNMENT HOSPITAL, AYYAMPILLY  
KUZHUPPILLY, ERNAKULAM DISTRICT.**

**R2-R4 BY ADV. SMT.NEETHU.G.NADH  
R1 BY PUBLIC PROSECUTOR SMT. S. HYMA**

**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. 1858 of 2015 ()**  
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**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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**ANNX.A1 - CERTIFIED COPY OF THE CHARGE SHEET IN CRIME NO.44/2001 OF  
MUNAMBAM POLICE STATION.**

**ANNX.A2 - CERTIFIED COPY OF THE JUDGMENT DATED 14-5-2007 IN SC NO.725/2005  
OF ADDL.SESIONS COURT (ADHOC.I), ERNAKULAM**

**ANNX.A3 - AFFIDAVIT DATED 9-2-2015 SWORN BY THE 2ND RESPONDENT.**

**ANNX.A4 - AFFIDAVIT DATED 6-2-2015 SWORN BY THE 3RD RESPONDENT**

**ANNX.A5 - AFFIDAVIT DATED 6-2-2015 SWORN BY THE 4TH RESPONDENT**

**RESPONDENT(S)' EXHIBITS: NIL**  
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/TRUE COPY/

PATO JUDGE  
sab

**P.UBAID, J.**

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**Crl. M.C No. 1858 of 2015**  
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Dated this the 25<sup>th</sup> day of March, 2015.

**O R D E R**

The petitioner herein is the original second accused in S.C No.725 of 2005 of the Sessions Court (Adhoc I), Ernakulam. The offences involved in this case are under Sections 143, 147, 148, 324, 307 r/w 149 of IPC. The other accused faced trial before the trial court and obtained a judgment of acquittal under Section 235(1) Cr.P.C, when the material witnesses turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. None of the material witnesses examined in the case supported the prosecution. In the absence of any evidence or incriminating circumstance, the learned trial judge acquitted the other accused. The case against the petitioner herein was split up, and now it stands transferred to the register of long pending cases as L.P No.11 of 2007. 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 the prosecution against him will not serve any purpose.

Annexure 2 judgment in S.C No.725 of 2005, 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 L.P No.11 of 2007 of the Sessions Court, Ernakulam will stand quashed under Section 482 of the Code of Criminal Procedure.

sd/-

P.UBAID,  
JUDGE

sab