

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

CRL.MC.NO. 1863 OF 2015

**LP.NO. 23/2009 OF ADDITIONAL SESSION'S COURT-I, MAVELIKKARA
CRIME NO. 152/2002 OF NOORANADU POLICE STATION , ALAPPUZHA**

PETITIONER/ACCUSED NO.5:

**SURESHKUMAR, AGED 38 YEARS
S/O.CHELLAPPAN ACHARI, PUTHENVEEDU, KIDANGAYAM MURI
NOORANAD VILLAGE, ALAPPUZHA**

BY ADV. SMT.K.N.BINDU

RESPONDENT/RESPONDENTS:

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- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**
 - 2. BINUKUMAR, AGED 44 YEARS,
S/O.KARUNAKARA PANICKER, ALLICKAL HOUSE, PAATOOR MURI
NOORANADU VILLAGE, ALAPPUZHA**

**R1 BY PUBLIC PROSECUTOR SMT.MAYA
R2 BY ADV. SMT.K.BHAVYA GOPAL**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
31-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

AS

APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEXURE 1: CERTIFIED COPY OF FIR AND FIS IN CRIME NO.152/2002.**
- ANNEXURE 2: COPY OF THE WOUND CERTIFICATE DATED 19.05.2002.**
- ANNEXURE 3: COPY OF THE FINAL REPORT DATED 04.08.2002.**
- ANNEXURE 4: COPY OF THE JUDGMENT DATED 28.10.2003.**
- ANNEXURE 5: COPY OF THE JUDGMENT DATED 27.12.2012.**
- ANNEXURE 6: AFFIDAVIT OF THE 2ND RESPONDENT DATED 14.03.2015.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A. TO JUDGE

AS

P. UBAID, J.

Crl.M.C.No.1863 of 2015

Dated this the 31st day of March, 2015

O R D E R

The petitioner herein is the original 5th accused S.C.No.718/2003 of the Additional Sessions Court, Fast Track, Mavelikkara. The offences involved in this case are under Sections 143, 147, 451 and 308 read with 149 IPC. The original accused Nos.1, 2 and 4 faced trial before the trial court in S.C.No.718/2003, and obtained a judgment of acquittal on 03.03.2009, when all the material witnesses turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. The case against the accused Nos.3 and 5 was split up. Later, the original 3rd accused faced trial in the trial court in S.C.No.41/2012. He also obtained a judgment of acquittal, when nobody supported the prosecution. The case against the petitioner herein was split up and refiled, and now it stands transferred to the register of long pending cases as L.P.No.23/2009 in the trial court. The petitioner now seeks orders from this court 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. All the material witnesses examined by the prosecution in the 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.23/2009 before the Additional Sessions Court, Mavelikkara will stand quashed under Section 482 of the Code of Criminal Procedure.

Sd/-

P. UBAID, JUDGE

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