

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. 1872 of 2015 ()

**IN CC 143/2011 of J.M.F.C.,THIRUVALLA
CRIME NO. 125/2001 OF KEEZHVAIPUR POLICE STATION , PATHANAMTITTA**

PETITIONER(S):

**KUNJUMON @ VARGHESE JACOB` AGED 38 YEARS
S/O.THOMAS VARGHESE, MUNDAPLACKAL MANNIL HOUSE
KUNNAMTHANAM, MALAPPALLY TALUK**

BY ADV. SRI.R.SANTHOSH BABU

RESPONDENT(S):

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

R BY PUBLIC PROSECUTOR SMT. S. HYMA

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

Crl.MC.No. 1872 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE A: COPY OF THE FINAL REPORT IN FIR NO.125/2001 KEEZHVAIPUR
POLICE STATION, DATED 21.05.2001**

**ANNEXURE B: COPY OF JUDGMENT IN CC.NO.205 /2006 OF JUDICIAL FIRST CLASS
MAGISTRATE COURT THIRUVALLA DATED 25.03.2011**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.UBAID, J.

Crl. M.C No. 1872 of 2015

Dated this the 31st day of March, 2015.

O R D E R

The petitioner herein is the original first accused in C.C No.205 of 2006 of the Judicial First Class Magistrate Court, Thiruvalla. The offences involved in this case are under Sections 341, 323, 324 r/w 34 of IPC. The original accused Nos.2 and 4 faced trial before the trial court and obtained a judgment of acquittal under Section 248(1) Cr.P.C when all the material witnesses turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. The prosecution examined 3 witnesses in the said case and also marked Exts.P1 to P5. None of the material witnesses examined in the case supported the prosecution. In the absence of any evidence or incriminating circumstance, the learned Magistrate acquitted the accused Nos.2 and 4. The case against the petitioner herein was split up and refiled as C.C No.143 of 2011. 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 B judgment in C.C No.205 of 2006 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 C.C No.143 of 2011 before the Judicial First Class Magistrate Court, Thiruvalla will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution, and the bail bond, if any, executed by him will stand discharged.

Sd/-

P.UBAID,
JUDGE