

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

Cr1.MC.No. 1889 of 2015

IN C.C NO.146/2015 OF THE J.M.F.C.-I,HOSDRUG

CRIME NO. 758/2007 OF HOSDURG POLICE STATION, KASARGOD

PETITIONER/ACCUSED 8:

K.V.BIJU, AGED 28 YEARS,
S/O.BALAN, KUDUKKUVALAPPIL MANIKOTH,
AJANUR VILLAGE.

BY ADV. SRI.C.K.SREEJITH

RESPONDENTS:

1. THE STATION HOUSE OFFICER,
HOSDURG POLICE STATION,
KASARAGOD
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM- 682 031.
2. STATE OF KEALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM- 682 031.
3. MUTTATH PRATHEESH, AGED 29 YEARS,
S/O.K.SURESH, PRASANNA NIVAS, VIVEKANANDA NAGAR,
KOLAVAYAL, KANHANGAD, AJANUR VILLAGE,
HOSDURG TALUK, KASRAGOD DISTRICT - 671 531.

R3 BY ADV. SRI.MURUGAN P.V.

R3 BY ADV. SMT.MARY RANZOM LOUIZ

R1 & R2 BY SR.PUBLIC PROSECUTOR SMT.SAREENA GEORGE.P

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 24-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 1889 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE-A1. COPY OF THE JUDGMENT IN CC NO.583/2010 DATED
25/3/2014 ON THE FILE OF THE JFCMC-I, HOSDURG.

ANNEXURE-A2. COPY OF THE FIR IN CRIME NO. 758/2007 OF HOSDURG
POLICE STATION, KASARAGOD DISTRICT.

ANNEXURE-A3. COPY OF THE FINAL REPORT IN CRIME NO.758/2007 ON THE
FILE OF HOSDURG POLICE STATION.

ANNEXURE-A4. THE AFFIDAVIT SWORN BY THE 3RD RESPONDENT

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.1889 of 2015

Dated this the 24th day of March, 2015

O R D E R

The petitioner herein is the original 8th accused in Crime No.758/2007 of the Hosdurg Police Station, registered under Sections 143, 147, 148, 324, 427, 435 r/w 149 of the Indian Penal Code. Five among the nine accused faced trial in C.C No.156/2008 before the Judicial First Class Magistrate Court I, Hosdurg, and obtained a judgment of acquittal when nobody supported the prosecution. The case against the original accused Nos.2, 4 and 8, including the petitioner herein was split up and refiled as C.C. No.583/2010. The original accused Nos.2 and 4 faced trial and obtained a judgment of acquittal on 25.3.2014 when all the material witnesses turned hostile in view of an amicable settlement. The case against the petitioner herein was split up and refiled as C.C No.811/2014, and it was later transferred to the register of long pending cases. Now the case stands refiled as C.C No.146/2015. 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 prosecution against him will not serve any purpose. Annexure A1 judgment in C.C No.583/2010 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.146/2015 before the Judicial First Class Magistrate Court I, Hosdurg will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution.

**P.UBAID
JUDGE**

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