

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

Crl.MC.No.1912 of 2015

**LPC NO.52/2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-II,
HOSDRUG.
CRIME NO.142/2009 OF BEKAL POLICE STATION,KASARGOD.**

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PETITIONER/1ST ACCUSED:

**AKKU @ ASKAR,AGED 37 YEARS,
S/O.MAMMUNHI,HADDAD NAGAR,
PALLIKKARA,PALLIKKARA VILLAGE.**

**BY ADVS.SRI.T.K.VIPINDAS
SRI.K.V.SREE VINAYAKAN
SRI.K.M.HASHIR
SRI.K.M.MUHAMMED HUSSAIN**

RESPONDENT/STATE:

**THE STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM,
REPRESENTING STATION HOUSE OFFICER,
BEKAL POLICE STATION-671121.**

BY SENIOR 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:**

pk

CRL.MC NO.1912/2015

APPENDIX

PETITIONER'S ANNEXURES:

**ANNEXURE A1:THE TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME
NO.156/2009 OF BEKAL POLICE STATION.**

ANNEXURE A2:THE TRUE COPY OF THE DEPOSITION OF PW1.

**ANNEXURE A3:THE TRUE COPY OF THE JUDGMENT INC.C.319/2009 BEFORE
THE JUDICIAL FIRST CLASS MAGISTRATE COURT-II,HOSDURG
DATED 29.6.2011.**

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

P. UBAID, J.

Crl.M.C.No.1912 of 2015

Dated this the 24th day of March, 2015

O R D E R

The petitioner herein is the original 1st accused in C.C.319/2009 of Judicial First Class Magistrate Court-II, Hosdurg. The offences involved in this case are under Sections 143, 147, 341 and 506(i) read with 149 IPC. The original 2nd accused faced trial before the trial court and obtained a judgment of acquittal under Section 255(1) Cr.P.C., in view of an amicable settlement made by the parties out of court. The prosecution examined one witness. The material witness examined in the case did not support the prosecution. In such a circumstance, examination of the others was dispensed with, and evidence was closed by the trial court. In the absence of any evidence or incriminating circumstance, the learned Magistrate acquitted the 2nd accused. The case against the petitioner herein was split up and refiled as C.C.No.743/2011, and it is now transferred to the register of long pending cases as L.P.C.No.52/2014. 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-A3 judgment in

C.C.319/2009 shows that the material witness 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.C.No.52/2014 before the Judicial First Class Magistrate Court-II, Hosdurg, will stand quashed under Section 482 of the Code of Criminal Procedure.

Sd/-

P. UBAID, JUDGE

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