

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. 1924 of 2015 ()

SC 910/2014 of ASSISTANT SESSIONS COURT, IRINJALAKUDA.

PETITIONER(S):

**ASHRAF, AGED 46 YEARS
S/O. UMMAR, KURIYAPPULLY HOUSE,
ARATTUVAZHI, ERIYAD VILLAGE,**

**BY ADVS.SRI.V.JOHN SEBASTIAN RALPH
SMT.PREETHY KARUNAKARAN
SMT.SANJANA R.NAIR
SRI.K.J.JOSEPH (ERNAKULAM)
SRI.V.JOHN THOMAS**

RESPONDENT:

**STATE OF KERALA
REPRESENTED BY C.I. OF POLICE, AZEEKODE COASTAL POLICE STATION
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM**

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:**

Crl.MC.No. 1924 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE 1 : COPY OF THE JUDGMENT IN S.C. NO.910 OF 2014 OF ASSISTANT SESSIONS COURT, IRINJALAKUDA.

ANNEXURE II : COPY OF THE FINAL REPORT IN CR.NO.8/2011 OF THE AZEEKODE COASTAL POLICE STATION.

RESPONDENT'S ANNEXURES : NIL

//TRUE COPY//

P.A. TO JUDGE

smv

P.UBAID, J.

Crl.M.C No.1924 of 2015

Dated this the 24th day of March, 2015

O R D E R

The petitioner herein is the original accused No.24 in S.C No.159 of 2012 of the Additional Assistant Sessions Court, Irinjalakuda. The offences involved in this case are under Sections 143, 147, 148, 341, 452, 323, 324, 427 and 308 r/w. 149 of the IPC. The original accused Nos. 1 to 23 and 25 faced trial before the trial court and obtained a judgment of acquittal under Sections 232 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 30 witnesses in the said case and also marked Exts.P1 to P30. 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 accused Nos.1 to 23 and 25. The case against the petitioner herein was split up and refiled, and it is now pending as SC No.910 of 2014 before Assistant Sessions Court, Irinjalakuda. 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 - 1 judgment in S.C.No.159 of 2012 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 S.C. No.910 of 2014 of the Assistant Sessions Court, Irinjalakkuda will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution.

Sd/-
P. UBAID, JUDGE

//true copy//

P.A. To Judge

Smv