

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937

CrI.MC.No. 1982 of 2015 ()

**IN LPC 28/2001 of J.M.F.C., TALIPARAMBA
CRIME NO. 14/1997 OF TALIPARAMBA POLICE STATION , KANNUR**

PETITIONER(S)/PETITIONER/ACCUSED NO.2:

**A.MUHAMMED KUNHI AGED 49 YEARS
S/O HUSSAIN HAJI, BUSINESS, RESIDING AT HARIS MANZIL
SYED NAGAR, TALIPARAMBA P.O., PIN:670 141.**

BY ADV. SRI.R.SURENDRAN

RESPONDENT(S)/RESPONDENT/RESPONDENT:

**STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.**

R BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE. P.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26-03-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 1982 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A1: CERTIFIED COPY OF THE FIR IN CRIME NO.14 OF 1997 OF TALIPARAMBA POLICE STATION IN KANNUR DISTRICT.

ANNEXURE A2: CERTIFIED COPY OF THE JUDGMENT DATED 26.6.2006 IN C.C.40 OF 2002 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATE COURT, TALIPARAMBA.

ANNEXURE A3: CERTIFIED COPY OF THE DEPOSITION OF WITNESS EXAMINED AS PW1 IN C.C.40 OF 2002 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATE COURT, TALIPARAMBA.

ANNEXURE A4: CERTIFIED COPY OF THE DEPOSITION OF WITNESS EXAMINED AS PW2 IN C.C.40 OF 2002 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATE COURT, TALIPARAMBA.

ANNEXURE A5: CERTIFIED COPY OF THE DEPOSITION OF WITNESS EXAMINED AS PW3 IN C.C.40 OF 2002 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATE COURT, TALIPARAMBA.

ANNEXURE A6: CERTIFIED COPY OF THE DEPOSITION OF WITNESS EXAMINED AS PW4 IN C.C.40 OF 2002 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATE COURT, TALIPARAMBA.

ANNEXURE A7: CERTIFIED COPY OF THE DEPOSITION OF WITNESS EXAMINED AS PW5 IN C.C.40 OF 2002 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATE COURT, TALIPARAMBA.

ANNEXURE A8: CERTIFIED COPY OF THE DEPOSITION OF WITNESS EXAMINED AS PW6 IN C.C.40 OF 2002 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATE COURT, TALIPARAMBA.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 1982 of 2015

Dated this the 26th day of March, 2015.

O R D E R

The petitioner herein is the second accused in C.C No.456 of 1998, of the Judicial First Class Magistrate Court, Taliparamba. The offences involved in this case are under Sections 457 and 380 of IPC. The other accused faced trial in C.C No.40 of 2002, and obtained a judgment of acquittal when the material witnesses turned hostile to the prosecution in view of an amicable settlement made by the parties out of court, and the police officer did not say anything implicating the accused. As regards this petitioner also, the position is the same. This accused was also not arrested, and nothing was recovered at his instance during investigation. The case against the petitioner herein was split up and refiled, and it now stands transferred to the register of long pending cases as L.P No.28 of 2001. 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 other, and continuance of the prosecution against him will not serve any purpose. Annexure 2 judgment in C.C No.40 of 2002 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 L.P No.28 of 2001 (Crime No.14 of 1997 of Taliparamba Police Station) will stand quashed under Section 482 of the Code of Criminal Procedure.

Sd/-

P.UBAID,
JUDGE