

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

Crl.MC.No. 1992 of 2015

L.P.C.NO.54/2011 OF JUDICIAL FIRST CLASS MAGISTRATE'S COURT-II,HOSDURG

CRIME NO. 262/2001 OF BEKAL POLICE STATION, KASARAGOD DISTRICT

PETITIONER(S)/9TH ACCUSED :

**NAZAR V.A, AGED 35 YEARS,
S/O.ABDULLA, RESIDING AT KUNIYA, PERIYA VILLAGE,
HOSDURG TALUK, KASARAGOD DISTRICT.**

**BY ADVS.SRI.T.MADHU
SMT.C.R.SARADAMANI**

RESPONDENT(S)/STATE :

**THE STATE OF KERALA,
THROUGH THE STATION HOUSE OFFICER,
BEKAL POLICE STATION, KASARAGOD DISTRICT,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM- 682 031.**

BY SR.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:**

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

- ANNEXURE A1: THE TRUE CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.262/2001 OF BEKAL POLICE STATION.**
- ANNEXURE A2: THE TRUE CERTIFIED COPY OF THE JUDGMENT DATED 26.12.2005 IN C.C.NO.325/2003 ON THE FILES OF THE LEARNED JUDICIAL FIRST CLASS MAGISTRATE'S COURT-II, HOSDURG.**
- ANNEXURE A3: THE TRUE CERTIFIED COPY OF THE JUDGMENT DATED 30.08.2007 IN C.C.NO.708/2005 ON THE FILE OF THE LEARNED JUDICIAL FIRST CLASS MAGISTRATE'S COURT-II, HOSDURG.**
- ANNEXURE A4: THE TRUE CERTIFIED COPY OF THE JUDGMENT DATED 22.10.2009 IN C.C.NO.603/2007 ON THE FILE OF THE LEARNED JUDICIAL FIRST CLASS MAGISTRATE'S COURT-II, HOSDURG.**

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

P.UBAID, J.
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**Crl.M.C No.1992 of 2015**  
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Dated this the 26th March, 2015

ORDER

The petitioner herein is the 9th accused in C.C No.325 of 2003 of the Judicial First Class Magistrate's Court-II, Hosdurg. The original accused Nos.1,2,4 and 8 faced trial and obtained judgment of acquittal in C.C No.325 of 2003 on 26.12.2005. The case against the others including the petitioner herein was split up and refiled as C.C No.708 of 2005. The material witnesses examined by the prosecution in C.C No.325 of 2003 turned hostile to the prosecution. The original accused Nos.3,5,6 and 7 later faced trial before the learned Magistrate in C.C No.708 of 2005. They also 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. The case against the petitioner herein was again split up and refiled as C.C No.603 of 2007. Now it stands transferred to the register of long pending cases as L.P No.54 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. Annexures-2,3,4 judgments in C.C No.325 of 2003, 708 of 2005 and 603 of 2007 show that all the material witnesses examined by the prosecution in the said cases turned hostile in view of the 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 herein in L.P No.54 of 2011 before the Judicial First Class Magistrate's Court-II, Hosdurg will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution.

**Sd/-
P.UBAID
JUDGE**

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/True copy/