

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. 1996 of 2015 ()

AGAINST N CC 305/2011 of J.M.F.C.-I, HOSDRUG
CRIME NO. 694/2007 OF HOSDURG POLICE STATION , KASARGOD

PETITIONER(S):

NOUFAL AGED 28 YEARS,
S/O.KUNHABDULLA,
VADAKARAMUKKU, BELLA VILLAGE,
KASARAGOD TALUK, KASARAGOD DISTRICT.

BY ADV. SRI.K.P.HARISH

RESPONDENTS/STATE /DEFACTO COMPLAINANT & INJURED (CW'S 1 & 2):

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1. STATE OF KERALA, THROUGH
STATION HOUSE OFFICER,
HOSDURG POLICE STATION (CRIME NO.694/2007)
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM – 682 031.
 2. VENU.B, AGED 41 YEARS,
S/O.MANI ACHU, R/AT BATHERIKAL HOUSE,
P.O.KANHANGAD BELLA VILLAGE,
HOSDURG TALUK, KASARAGOD DISTRICT.
 3. VINU P.P, AGED 32 YEARS,
S/O.VENU, R/AT B.K HOUSE,
BATHERIKAL P.O, KANHANGAD, BELLA VILLAGE,
HOSDURG TALUK, KASARAGOD DISTRICT.

R2 & 3 BY ADV. KUM.K.SASIKALA
R1 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:

APPENDIX

PETITIONER'S EXHIBITS:

ANNEXURE A1: TRUE COPY OF THE FIR DATED 15.11.2007 IN CRIME NO.694 OF 2007 OF HOSDURG POLICE STATION

ANNEXURE A2: TRUE COPY OF THE FINAL REPORT DATED 31.12.2007 IN CRIME NO.694/2007 AS NUMBERED AS C.C. NO.349/2008 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATE'S COURT-I, HOSDURG.

ANNEXURE A3: TRUE COPY OF THE JUDGMENT DATED 14.12.2008 IN C.C. NO.349/2008 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I, HOSDURG.

ANNEXURE A4: TRUE COPY OF THE AFFIDAVIT DATED 4.2.2015 SIGNED BEFORE AN ADVOCATE NOTARY BY THE 2ND RESPONDENT

ANNEXURE A4 (a): TRUE COPY OF THE AFFIDAVIT DATED 4.2.2015 SIGNED BEFORE AN ADVOCATE NOTARY BY THE 3RD RESPONDENT.

RESPONDENTS EXHIBITS:

TRUE COPY

P.S TO JUDGE

P.UBAID, J.
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**Crl.M.C No.1996 of 2015**  
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Dated this the 26th March, 2015

ORDER

The petitioner herein is the original 2nd accused in C.C.No.349 of 2008 of the Judicial First Class Magistrate's Court-I, Hosdurg. The accused Nos.1,3,4 and 5 faced trial before the trial court and obtained a judgment of acquittal when nobody supported the prosecution. The case against the others was split up and refiled as C.C No.1392 of 2009. Later, the petitioner surrendered before the learned Magistrate. His case was accordingly refiled as C.C No.305 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. Annexure -A3 judgment in C.C No.349 of 2008 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 herein in C.C No.305 of 2011 before the Judicial First Class Magistrate's Court-I, Hosdurg will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution, and the bail bond, if any, executed by him will stand discharged.

**Sd/-
P.UBAID
JUDGE**

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/True copy/
P.S to Judge