

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. 2005 of 2015

S.C.NO.1279/2014 OF ASSISTANT SESSIONS COURT, KOYILANDY

CRIME NO. 989/2008 OF KOYILANDY POLICE STATION , KOZHIKODE

PETITIONER(S)/ACCUSED :

- 1. ABNAS, AGED 30 YEARS,
S/O.BAVA, KUNNUMMAL HOUSE, VIYYUR AMSOM,
KOLLAM DESOM.**
- 2. SAHEER, AGED 31 YEARS,
S/O.ABDULKHADER, VAYALIL HOUSE, VIYYUR AMSOM,
KOLLAM DESOM.**

BY ADV. SMT.K.DEEPA (PAYYANUR)

RESPONDENT(S) :

**STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY SR.PUBLIC PROSECUTOR SMT.P.SAREENA GEORGE

**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 I: CERTIFIED COPY OF THE FINAL REPORT OF
CRIME NO. 989/2008 OF THE KOYILANDY POLICE STATION,
KOZHIKODE.**

**ANNEXURE II: TRUE COPY OF THE JUDGMENT DATED 21/02/2012 IN
S.C.NO. 73/2010 OF THE ASSISTANT SESSIONS JUDGE,
KOYILANDY.**

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

P.UBAID, J.
~~~~~  
**Crl.M.C No.2005 of 2015**  
~~~~~  
Dated this the 26th March, 2015

ORDER

The petitioners herein are accused Nos.1 and 2 in Crime No.989 of 2008 of Koyilandy Police Station. The accused Nos.3,5 and 6 faced trial before the learned Assistant Sessions Judge, Koyilandy in S.C 73 of 2010 and obtained judgment of acquittal when all 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 petitioners herein was split up at the initial stage and now it is pending as C.C. No.1279 of 2014. The case against the original 4th accused also stands split up. The petitioners now seek orders quashing the prosecution as against them 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 them will not serve any purpose. Annexure -II judgment in S.C No.73 of 2010 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 petitioners 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 petitioners herein in S.C No.1279 of 2014 before the Assistant Sessions Court, Koyilandy will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioners will stand released from prosecution.

**Sd/-
P.UBAID
JUDGE**

ma

/True copy/

P.S to Judge