

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

Crl.MC.No. 2053 of 2015

**CC 1597/2011 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, CHAVAKKAD.
CRIME NO. 149/2007 OF VATANAPPALLY POLICE STATION.**
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PETITIONER/ACCUSED 9:

**GAFOOR, S/O.BASHEER,
POKKAKKILLATH HOUSE, CHETTUVA,
ENGANDIYOOR VILLAGE, CHAVAKKAD.**

**BY ADVS.SRI.S.U.NAZAR
SRI.MANSOOR.B.H.**

RESPONDENT/COMPLAINANT/STATE:

**STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
THROUGH STATION HOUSE OFFICER,
VATANAPILLY POLICE STATION, THRISSUR DISTRICT.**

BY SENIOR PUBLIC PROSECUTOR SMT.SAREENA GEORGE.P

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 30-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' ANNEXURES:

ANNEXURE A- A COPY OF THE CHARGE SHEET IN CRIME NO.149/2007 OF VATANAPILLY POLICE STATION.

**ANNEXURE B- A TRUE COPY OF THE JUDGMENT DATED 19.1.2007 IN
C.C.NO.1309/2007 OF JUDICIAL FIRST CLASS MAGISTRATE
COURT, CHAVAKKAD.**

RESPONDENT(S)' ANNEXURES: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

P. UBAID, J.

Crl.M.C.No.2053 of 2015

Dated this the 30th day of March, 2015

O R D E R

The petitioner herein is the original accused No.9 in C.C.No.1309/2007 of Judicial First Class Magistrate Court, Chavakkad. The offences involved in this case are under Sections 289, 337, 338 and 439 read with 34 IPC. The accused Nos.2 to 4, 6 to 8 and 10 faced trial before the trial court and obtained a judgment of acquittal under Section 248(1) 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 five witnesses in the said case, and also marked Ext.P1 First Information Statement. None of the material witnesses examined in the case supported the prosecution. In such a circumstance, examination of the others was dispensed with and evidence was closed by the trial court. In the absence of any evidence or incriminating circumstance, the learned Magistrate acquitted the accused Nos.2 to 4, 6 to 8 and 10. The case against the petitioner was split up and refiled as C.C.No.1597/2011. The case against the original accused Nos.1 and 5 was quashed by this Court as per order dated 02.02.2015 in

Crl.M.C.No.636/2015. 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 prosecution against him will not serve any purpose. Annexure-B judgment in C.C.1309/2007 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 C.C.No.1597/2011 of Judicial First Class Magistrate Court, Chavakkad 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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