

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 8TH DAY OF JUNE 2015/18TH JYAISHTA, 1937

Crl.MC.No. 2056 of 2015

**SC 1340/2010 OF ASSISTANT SESSIONS COURT, ATTINGAL DATED.
CRIME NO. 294/1997 OF KILIMANOOR POLICE STATION.**
.....

PETITIONER/9TH ACCUSED:

**ARUN, S/O.MADHAVAN,
AMBADI VEEDU, VAMANAPURAM VILLAGE,
THIRUVANANTHAPURAM.**

BY ADV. SRI.SAJU.S.A

RESPONDENT/COMPLAINANT AND STATE:

**STATE OF KERALA,
REPRESENTED BY SECRETARY,
MINISTRY OF HOME AFFAIRS,
THIRUVANANTHAPURAM, PIN-695001.**

BY PUBLIC PROSECUTOR SMT.S.HYMA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 08-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER'S ANNEXURES:

- ANNEXURE 1 :** TRUE COPY OF THE CHARGE SHEET SUBMITTED BY
KILIMANOR POLICE IN CRIME NO.294/1997 DATED 20.9.2000.
- ANNEXURE 2:** TRUE COPY OF APPLICATION DATED 28.3.2003 SUBMITTED BY
THE ADDITIONAL PUBLIC PROSECUTOR BEFORE ASSISTANT
SESSIONS COURT ATTINGAL IN S.C.1580/2001.
- ANNEXURE 3 :** TRUE COPY OF JUDGMENT DATED 21.8.2004 OF ASSISTANT
SESSIONS COURT ATTINGAL IN S.C.1580/2001.

RESPONDENT'S ANNEXURES: - NIL

/TRUE COPY/

P.S. TO JUDGE

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ALEXANDER THOMAS, J.

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Dated this the 8th day of June, 2015.

ORDER

The petitioner herein is the accused No.9 in the impugned Crime No.294/1997 of Kilimanoor Police Station registered for offences under Secs.143, 147, 148, 149, 324, 427 r/w 149 IPC. The police after investigation submitted impugned Annexure-1 Final Report/Charge Sheet in the above said crime which later led to the pendency of S.C.No.1580/2001 on the file of the Assistant Sessions Court, Attingal. Since the petitioner was not available for trial, the case against him was split up. The case as against other accused proceeded. Later the State Government gave permission to the prosecutor to take steps for withdrawal of the prosecution in the above case. This led to the submission Annexure-3 by the Public Prosecutor concerned seeking permission for withdrawal of the prosecution under Sec.320 Cr.P.C. The Assistant Sessions Court as per Annexure-3 judgment dated 21.8.2004 in S.C.No.1580/2001 found that the wound certificate produced in the case will go to show that the injuries are not much serious and that explosive substances said to have been used are

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crackers and that no weapon is recovered. After going through the entire records the court below held that the prosecution has sought for withdrawal of the impugned prosecution against the accused and the prosecutor is justified in protecting the interest of justice. Therefore, the court below thought it a fit case that the accused can be acquitted under Sec.321 Cr.P.C. and accordingly accused therein were acquitted by the court below. The case against the petitioner is now pending as S.C.No.1340/2010 on the file of the Assistant Sessions Court, Attingal. It is in the light of these aspects that the prayer for quashment in the light of Annexure-3 judgment of acquittal and in view of the permission granted by the Government for withdrawal of the prosecution.

2. Heard Sri.S.A.Saju, learned counsel for the petitioner and the learned Public Prosecutor-State of Kerala.

3. The Government thought it fit that this is a fit case wherein permission could be granted to the prosecutor to seek withdrawal of the prosecution which led to the impugned crime and after careful consideration the court below considered it as a fit case for granting permission for withdrawal of the impugned criminal proceedings and accordingly by Annexure-3 judgment the court below had acquitted the other co-accused. It is thus seen that the petitioner would also have

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got the benefit of the said acquittal and withdrawal of the prosecution etc., if he was present for trial. The crime is of the year 1997 and the final report was submitted on September, 2000 and the original Sessions Case was of the year 2001. No meaningful purpose will be subserved by prolongation of the impugned criminal proceedings. In this view of the matter, the impugned Annexure-1 Final Report/Charge Sheet filed in Crime No.294/1997 of Kilimanoor Police Station which has led to the pendency of S.C.No.1340/2010 on the file of the Additional Sessions Court, and all further proceedings arising therefrom stand quashed.

With these observations and directions, this Crl.M.C stands finally disposed of.

ALEXANDER THOMAS,
Judge.

bkn/-