

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

Cr1.MC.No. 2126 of 2015

IN C.C NO.2652/2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT-I, HOSDRUG

CRIME NO. 57/2010 OF HOSDURG POLICE STATION, KASARGOD

PETITIONERS/ACCUSED NO.4 AND 6:

1. RATHEESH.K, AGED 30 YEARS,
S/O.A.V.KRISHNAN, KELAPPAN VEDDU, MADIYAN
AJANUR VILLAGE.
2. MANOJ K, AGED 36 YEARS,
S/O.A.V.KRISHNAN, KELAPPAN VEDDU, MADIYAN,
AJANUR VILLAGE.

BY ADVS.SRI.T.K.VIPINDAS
SRI.K.V.SREE VINAYAKAN
SRI.K.M.HASHIR
SRI.K.M.MUHAMMED HUSSAIN

RESPONDENTS/STATE:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM REPRESENTING STATION HOUSE OFFICER,
HOSDURG POLICE STATION - 671 121.

BY SR. PUBLIC PROSECUTOR SMT.SAREENA GEORGE.P

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 31-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A1: COPY OF THE FIRST INFORMATION REPORT IN CRIME NO.57/2010 OF HOSDURG POLICE STATION.

ANNEXURE A2: COPY OF THE JUDGMENT IN C.C NO.769/2010 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT I, HOSDURG DATED 25.9.2014

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.2126 of 2015

Dated this the 31st day of March, 2015

O R D E R

The petitioners herein are the original accused Nos.4 and 6 in C.C No.769/2010 of the Judicial First Class Magistrate Court I, Hosdurg. The offences involved in the case are under Sections 143, 147, 148, 341, 323, 324 and 326 r/w 149 of the Indian Penal Code. The original accused Nos. 1, 2, 3, 5, 7 and 8 faced trial before the trial court and obtained a judgment of acquittal under Section 257(1) of the Code of Criminal Procedure when all the material witnesses including the first informant/de facto complainant turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. The prosecution examined eight witnesses in the said case including the first informant/de facto complainant and also marked Ext.P1. 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.1, 2, 3, 5, 7 and 8. The case against the petitioners herein was split up and refiled, and it is now pending as C.C

No.2652/2014 before Judicial First Class Magistrate Court I, Hosdurg. 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 acquittal of the others, and continuance of prosecution against them will not serve any purpose. Annexure 2 judgment in C.C No.769/2010 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 in C.C No.2652/2014 before Judicial First Class Magistrate Court I, Hosdurg will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioners will stand released from prosecution.

**Sd/-
P.UBAID
JUDGE**

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