

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

Crl.MC.No. 2149 of 2015 ()

**IN CC 872/2013 of J.M.F.C.,MALAPPURAM
CRIME NO. 472/2008 OF KONDOTTY POLICE STATION , MALAPPURAM**

PETITIONER(S)/PETITIONER/ACCUSED NO.2:

**MOOZHICKAL MUHAMMED AGED 38 YEARS
S/O MOIDEEN, KUNNATH HOUSE, MANIPARAMBA
VALLUVAMBRAM, CHOOKKOTTOR, MANJERI
MALAPPURAM DISTRICT.**

**BY ADVS.SRI.K.M.JAMALUDHEEN
SMT.LATHA PRABHAKARAN**

RESPONDENT(S)/RESPONDENT/DE-FACTO COMPLAINANT:

**STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.**

R BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE. P.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01-04-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 2149 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A: CERTIFIED COPY OF FIR IN CRIME NO.472/2008 OF KONDOTTY POLICE STATION.

ANNEXURE B: CERTIFIED COPY OF CHARGE IN CRIME NO.472/2008 OF KONDOTTY POLICE STATION WITH PHOTOCOPY OF MEMORANDUM OF WITNESSES.

ANNEXURE C: TRUE COPY OF JUDGMENT IN C.C.NO.1076/2008 OF JUDICIAL IST CLASS MAGISTRATE COURT, MALAPPURAM DATED 26.8.2013.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No.2149 of 2015

Dated this the 1st day of April, 2015.

O R D E R

The petitioner herein is the original second accused in C.C No.1076 of 2008 of the Judicial First Class Magistrate Court, Malappuram. The offences involved in the crime are under Sections 323, 326, 427 r/w 34 of IPC. Pending the proceedings the third accused died, and thus the prosecution as against him abated. The original first accused faced trial before the learned Magistrate in C.C No.1076 of 2008, and obtained a judgment of acquittal on 26.8.2013 when the material witnesses examined by the prosecution did not in any manner support the prosecution. The prosecution examined three witnesses, and marked Ext.P1 during trial. The case against the petitioner herein and the original fourth accused was split up and refiled as C.C No.872 of 2013. The petitioner now seeks orders quashing the prosecution as against him on the ground of amicable settlement between him and the complainant. Annexure C judgment in C.C No. 1076 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 in C.C No.872 of 2013 before the Judicial First Class Magistrate Court, Malappuram 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. The said case will continue against the original 4th accused.

Sd/-

P.UBAID,
JUDGE