

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

Crl.MC.No. 2275 of 2015 ()

**CC 370/2008 of JUDICIAL FIRST CLASS MAGISTRATE COURT- II,KOTTARAKKARA
CC 646/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT, KADAKKAL**

PETITIONER/2ND ACCUSED :

**SAIF, AGED 29 YEARS,
S/O.ABDUL SALAM, RESIDING AT KUNNUVILA VEEDU,
NEAR KULAPPADOM MUSLIM PALLI, NEDUMPANA MURI,
NEDUMPANA VILLAGE, KOLLAM DISTRICT.**

**BY ADVS.SRI.V.A.AJIVAS
SMT.M.MANJU (KADAKKAL)**

RESPONDENT/COMPLAINANT :

**STATE OF KERALA
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
CHADAYAMANGALAM POLICE STATION,
KOLLAM DISTRICT, THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE P.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 07-04-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

bp

Crl.MC.No. 2275 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE-I: THE TRUE COPY OF THE FINAL REPORT IN CRIME NO.36/2008 OF CHADAYAMANGALAM POLICE STATION IN KOLLAM DISTRICT PENDING AS CC NO.646/2014 (C.C.NO.370/2008) BEFORE THE HONOURABLE JUDICIAL FIRST CLASS MAGISTRATE COURT, KADAKKAL, KOLLAM.

ANNEXURE-II: THE TRUE COPY OF THE JUDGMENT IN C.C.NO.370/2008 OF HONOURABLE JUDICIAL FIRST CLASS MAGISTRATE COURT-II, KOTTARAKKARA, KOLLAM.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P. UBAID, J.

Crl.M.C.No.2275 of 2015

Dated this the 7th day of April, 2015

O R D E R

The petitioner herein is the original 2nd accused in C.C. No.370/2008 of the Judicial First Class Magistrate Court-II, Kottarakkara. The offences involved in this case are under Sections 143, 147, 341, 323, 363 and 109 read with 149 IPC. The 3rd accused died pending the proceeding, and thus charge against him abated. The original accused Nos.1 and 4 to 6 faced trial before the learned Magistrate in C.C.No.370/2008, and obtained a judgment of acquittal under Section 248(1) Cr.P.C., when nobody supported the prosecution. The case against the petitioner was split up and refiled as C.C.No.1351/2012. Now, it is pending as C.C.No.646/2014 before the Judicial First Class Magistrate Court, Kadakkal. The prosecution examined two witnesses in C.C.No.370/2008. None of the 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 and 4 to 6. 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-All judgment in C.C. 370/2008 shows that 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.646/2014 before the Judicial First Class Magistrate Court, Kadakkal 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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