

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. 2278 of 2015

**SC 264/2009 OF ADDITIONAL SESSIONS COURT (AD HOC- II), KASARAGOD
CRIME NO. 90/2008 OF BEKAL POLICE STATION , KASARGOD**

PETITIONER(S)/ACCUSED NO.11:

**PRAVEEN KUMAR.T.K, AGED 28 YEARS,
S/O.KUMARAN, T.K.HOUSE, THEKKEKKARA,
UDMA, UDMA VILLAGE, P.O.BEKAL
HOSDURG TALUK.**

BY ADV. SRI.A.ARUNKUMAR

RESPONDENT(S)/COMPLAINANT/STATE:

**STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**

BY SENIOR 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:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE-A1: A TRUE COPY OF THE F.I.R IN CRIME NO.90 OF 2008 BY THE BEKAL POLICE STATION, KASARAGOD.

ANNEXURE-AII: A TRUE COPY OF THE FINAL REPORT IN CRIME NO.90 OF 2008 BY THE BEKAL POLICE STATION, KASARAGOD.

ANNEXURE-AIII: A TRUE COPY OF THE JUDGEMENT IN S.C. NO.264 OF 2009 ON THE FILES OF ADDITIONAL DISTRICT AND SESSIONS COURT - II, KASARAGOD DATED 25.5.2013

ANNEXURE-AIV: A TRUE COPY OF THE ORDER DATED 5.1.2015 IN CRL.M.C NO.7388 OF 2014.

ANNEXURE-AIV(A): A TRUE COPY OF THE ORDER DATED 3.3.2015 IN CRL.M.C.NO.997 OF 2015

ANNEXURE-AIV(B): A TRUE COPY OF THE ORDER DATED 3.3.2015 IN CRL.M.C. NO.1008 OF 2015.

ANNEXURE-AIV(C): A TRUE COPY OF THE ORDER DATED 10.3.2015 IN CRL.M.C. NO.1503 OF 2015

ANNEXURE-AIV(D): A TRUE COPY OF THE ORDER DATED 10.3.2015 IN CRL.M.C. NO.1506 OF 2015.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P. UBAID, J.

Crl.M.C.No.2278 of 2015

Dated this the 7th day of April, 2015

O R D E R

The petitioner herein is the original 11th accused in Crime No.90/2008 of the Bekal Police station registered under Sections 143,147, 148, 332 and 308 IPC, under Section 3(2)(c) of the PDPP Act, and under Section 2 of the Kerala Prevention of Disturbance of Public Meeting Act,1961. Nine among the eighteen accused in the crime faced trial before the learned Additional Sessions Judge-II, Kasaragod in S.C.No.264/2009 and obtained a judgment of acquittal on merits on the finding that the prosecution miserably failed to prove the case. The case against the original 15th accused was quashed by this Court by order dated 05.01.2015 in Crl.M.C.No.7388/2014. The case against the original accused Nos.12 and 20 was later quashed by this Court as per order dated 03.03.2015 in Crl.M.C.Nos.997 and 1008 of 2015. The case against the petitioner was split up and refiled, when he absconded during the trial process, and it now stands refiled as S.C.No.36/2015. He now seeks orders quashing

the prosecution against him on the ground that the very substratum of the prosecution stands totally lost by the acquittal of the others, and also the orders of this Court quashing the prosecution against some of the accused.

2. Annexure All order of the trial Court in S.C.No.264/2009 shows that the prosecution examined 11 witnesses in the case including the police officers, who sustained injuries in the alleged incident, and also marked Exts.P1 to P14. The accused did not adduce any oral evidence. However, Exts.D1 and D2 were marked in defence. Of the eleven witnesses examined by the prosecution, PW1 to 3 are the police officers who sustained injuries in the alleged incident and PW4 is the doctor who examined them in the hospital and issued wound certificate. PW5 is the village officer who prepared the scene plan and PW7 is an attester to the scene Mahazar. PW6 is the Sub Inspector who was on duty at the place of incident and who also sustained some injuries. PWs 8 and 9 are the two independent eye witnesses examined by the prosecution. They are nearby shop owners. The independent witnesses examined by the prosecution turned hostile during trial. PW1 to 3 stated during trial that they had sustained injuries in a mob

attack. But, they could not identify the persons who inflicted injuries on them. PW6 also could not identify anybody during trial. All the material witnesses stated about a mob attack in which they sustained injuries, but none of the witnesses identified any of the accused during trial. In the absence of any evidence or incriminating circumstance against the accused, the learned Trial Judge acquitted 9 among the accused on 20.5.2013.

3. I find that the substratum of the case stands lost, and that continuance of the prosecution will not serve any purpose. The prosecution cannot in any manner prove the case.

In the result, this petition is allowed. The prosecution against the petitioner in S.C.No.36/2015 of the now pending before the learned Additional Sessions Judge-II, Kasaragod, will stand quashed under Section 482 Cr.P.C.

Sd/-

P. UBAID, JUDGE

sd