

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

Crl.MC.No. 2320 of 2015 ()

AGAINST CC 881/2010 of J.M.F.C.-I, HOSDRUG DATED 30-06-2014
CRIME NO. 398/2010 OF HOSDURG POLICE STATION , KASARGOD

PETITIONER(S)/ACCUSED NO.3::

T.P.MOHAMMED ARIF @ ARIF AGED 25 YEARS
S/O.KHALID, PRESENTLY RESIDING AT T.P. HOUSE
NEAR EMS CLUB, KARUVALAM, PADANNAKKAD
KANHANGAD VILLAGE, PERMANENT RESIDENCE AT KATTAYI
THIRUR, MALAPPURAM.

BY ADV. SRI.A.ARUNKUMAR

RESPONDENT(S)/COMPLAINANT/STATE:

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

BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE.P

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 08-04-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CrI.MC.No. 2320 of 2015

APPENDIX

PETITIONER'S EXHIBITS:

ANNEXURE A1: TRUE COPY OF THE FIR IN CRIME NO.398 OF 2010 OF
HOSDURG POLICE STATION

ANNEXURE AII: TRUE COPY OF THE FINAL REPORT IN CRIME NO.398 OF
2010 OF HOSDURG POLICE STATION

ANNEXURE AIII: TRUE COPY OF THE JUDGMENT DATED 30.6.2014 IN C.C.
881 OF 2010 OF JUDICIAL FIRST CLASS MAGISTRATE-I, HOSDURG.

RESPONDENTS EXHIBITS:

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.

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**Crl.M.C No.2320 of 2015**

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Dated this the 8th April, 2015

ORDER

The petitioner herein is the original 3rd accused in C.C No.881 of 2010 of the Judicial First Class Magistrate's Court-I, Hosdurg. The offences involved in this case are under Sections 143, 147, 148, 324, 326 and 427 read with 149 of Indian Penal Code. The original accused Nos.1, 2, 4 and 5 faced trial before the trial court and obtained a judgment of acquittal under Section 248 (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 six witnesses in the said case 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.1,2,4 and 5. The case against the petitioner herein was split up and refiled as C.C No.1772 of 2014 and it is

now pending before the same court. 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 the prosecution against him will not serve any purpose. Annexure-III judgment in C.C No.881 of 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 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 herein in C.C No.1772 of 2014 before the Judicial First Class Magistrate's Court-I, Hosdurg 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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/True copy/

P.S to Judge