

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

Crl.MC.No. 2360 of 2015 ()

**SC 377/2008 of ADDITIONAL SESSIONS COURT (ADHOC-II)KASARAGODE
CP 59/2008 of JUDICIAL FIRST CLASS MAGISTRATE COURT-I, KASARAGOD
CRIME NO. 277/2007 OF KUMBLA POLICE STATION, KASARGOD DISTRICT**
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PETITIONER/ACCUSED:

**ANSAR, AGED 27 YEARS, S/O. MUHAMMED
RESIDING AT SUNAIZ MANZIL NEAR MUTTAM
GATE, SHIRIYA VILLAGE, KUMBALA
KASARAGOD DISTRICT**

**BY ADVS.SRI.RAM MOHAN.G.
SRI.G.P.SHINOD
SRI.MANU V.
SRI.GOVIND PADMANAABHAN
SRI.AJIT G.ANJARLEKAR**

RESPONDENT/COMPLAINANT-STATE:

**STATE OF KERALA REPRESENTED BY ITS
PUBLIC PROSECUTOR AT THE HIGH COURT
OF KERALA, ERNAKULAM**

BY Sr. PUBLIC PROSECUTOR SMT. SAREENA GEORGE P.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 09-04-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

**ANNEXURE-A: CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.277/23007 OF
KUMBALA POLICE STATION**

**ANNEXURE-B: CERTIFIED COPY OF THE JUDGMENT OF THE COURT OF THE
ADDITIONAL SESSIONS JUDGE (ADHOC-II), KASARAGOD**

RESPONDENT'S EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.2360 of 2015

Dated this the 9th day of April, 2015

O R D E R

The petitioner herein is the original first accused in Crime No.277/2007 of the Kumbala Police Station, registered under Section 427 and 308 IPC. The original 2nd accused faced trial before the learned Additional Sessions Judge (Adhoc-II), Kasaragod in S.C.No.377/2008, and obtained a judgment of acquittal on 09.08.2011, when none of the material witnesses supported the prosecution. The case against the petitioner herein was split up and refiled in the committal court itself, and now it stands transferred to the register of long pending cases as L.P.No.104/2009 before the Judicial First Class Magistrate Court-I, Kasaragod. The prosecution examined seven witnesses in S.C.No.377/2008, and also marked Exts.P1 to P7. 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 trial judge acquitted the accused No.2. 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 2nd accused, and continuance of prosecution against him will not serve any purpose. Annexure -B judgment in S.C.377/2008 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 L.P.No.104/2009 before the Judicial First Class Magistrate Court-I, Kasaragod will stand quashed under Section 482 of the Code of Criminal Procedure.

Sd/-

P. UBAID, JUDGE

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