

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. 2364 of 2015 ()

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SC 667/2011 of ADDITIONAL DISTRICT AND SESSIONS COURT, VADAKARA
CRIME NO. 304/2009 OF CHOMBALA POLICE STATION, KOZHIKODE
=====**

PETITIONERS/ACCUSED NO.2:

**LATHEEF @ KATHI LATHEEF, AGED 36 YEARS
S/O.MOIDU, NELLOLI HOUSE, P.O.AZHIYUR
VATAKARA TALUK.**

BY ADV. SRI.ZUBAIR PULIKKOOL

RESPONDENTS/COMPLAINANT:

**STATE OF KERALA
REP.BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA.**

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-I: TRUE COPY OF THE FINAL REPORT IN CRIME NO.304/2009 OF
CHOMBALA POLICE STATION.**

**ANNEXURE-II: CERTIFIED COPY OF JUDGMENT IN SC 667/2011 DATED 19.3.2013 OF
THE ADDL.DISTRICT & SESSIONS JUDGE VATAKARA.**

RESPONDENT'S EXHIBITS

NIL

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

SD

P. UBAID, J.

Crl.M.C.No.2364 of 2015

Dated this the 9th day of April, 2015

O R D E R

The petitioner herein is the original 2nd accused in S.C.No.667/2011 of the Additional Sessions Court(NDPS), Vatakara. The offences involved in this case are under Sections 143, 147 and 436 read with 149 IPC. The other accused faced trial before the trial court and obtained a judgment of acquittal under Section 232 Cr.P.C. on 19.03.2013, when none of the witnesses supported the prosecution during trial. The prosecution examined four witnesses in the said case, and also marked Exts. P1 to P3. 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 other accused. The case against the petitioner herein was split up and refiled, and later, it was transferred to the register of long pending cases as L.P.No.1/2014 before the Additional Sessions Judge (NDPS) Court, Vadakara. 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-II judgment in S.C.667/2011 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.1/2014 before the Additional District & Sessions Judge (NDPS) Court, Vadakara will stand quashed under Section 482 of the Code of Criminal Procedure.

Sd/-

P. UBAID, JUDGE

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