

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 24TH DAY OF JULY 2015/2ND SRAVANA, 1937

Cr1.MC.No. 2372 of 2015

IN LP 198/2005 of J.M.F.C.-I, THRISSUR

CRIME NO. 36/2001 OF NEDUPUZHA POLICE STATION, THRISSUR

PETITIONER/1ST ACCUSED:

ABDUL SALAM,
S/O.NALAKATH MOIDEEN, LAILA QUARTERS,
NEAR KALLIYATH HOSPITAL, TIRUR,
MALAPPURAM DISTRICT.

BY ADV. SRI.C.M.MOHAMMED IQUABAL

RESPONDENTS/STATE & COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. SAJNA, AGED 20 YEARS,
D/O.HYDROSE, KARAPPAMVEETIL HOUSE,
CHANAPPATTA LANE,
VATTOOKKARA POST,
THRISSUR DISTRICT-680007.

R1 BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
24-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 2372 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE-A1: COPY OF THE COMPLAINT IN CMP 862/2001 OF THE JFCM COURT-II, THRISSUR DATED 27.01.2001.

ANNEXURE-A2: COPY OF THE FIR IN CRIME NO.36/2001 OF NEDUPUZHA POLICE STATION DATED 12.02.2001.

ANNEXURE-A3: COPY OF THE CHARGE SHEET IN CRIME NO.36/2001 OF NEDUPUZHA POLICE STATION DATED 12.02.2001.

ANNEXURE-A4: COPY OF THE JUDGMENT DATED 07.02.2005 IN C.C.NO.483/2001 OF THE JFCM COURT-II, THRISSUR.

ANNEXURE-A5: COPY OF THE EVIDENCE OF THE 2ND RESPONDENT IN C.C.NO.483/2001 OF THE JFCM COURT-II, THRISSUR DATED 23.05.2005.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.2372 of 2015

Dated this the 24th day of July, 2015

O R D E R

The petitioner herein is the original 1st accused in C.C No.483/2001 of the Judicial First Class Magistrate Court II, Thrissur. The offences involved in the case are under Sections 406, 420 and 498A of the Indian Penal Code. The original accused Nos.2 and 3 faced trial before the trial court and obtained a judgment of acquittal under Section 248(1) of the Code of Criminal Procedure when 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 two witnesses in the said case including the de facto complainant, 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.2 and 3. The case against the petitioner herein was split up and refiled as C.C No.84/2005, and now it stands transferred to the

register of long pending cases as L.P No.198/2005. 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 4 judgment in C.C No.483/2001 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.84/2005 (now pending as L.P No.198/2005) before the Judicial First Class Magistrate Court II, Thrissur will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution.

**P.UBAID
JUDGE**

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