

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

Crl.MC.No. 2389 of 2015 ()

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CC 510/2008 of JUDICIAL FIRST CLASS MAGISTRATE COURT-I,VARKALA
CRIME NO. 373/2007 OF VARKALA POLICE STATION, THIRUVANANTHAPURAM
DISTRICT
=====**

PETITIONER/3RD ACCUSED:

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RAJESH, S/O RAJENDRA PRASAD, SANTHI VIHAR
NEAR JANARDHANASWAMY TEMPLE, JANAARDHANAPURAM DESOM
VARKALA VILLAGE, THIRUVANANTHAPURAM DISTRICT.**

BY ADV. SRI.O.D.SIVADAS

RESPONDENT/COMPLAINANT AND STATE:

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- 1. THE SUB INSPECTOR OF POLICE
VARKALA POLICE STATION
THIRUVANANTHAPURAM DISTRICT-695001.**
 - 2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.**

BY Sr. PUBLIC PROSECUTOR SMT. SAREENA GEORGE P.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10-04-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

**ANNEXURE A1: COPY OF THE CHARGE SHEET IN CRIME NO.373 OF 2007 OF
VARKALA POLICE STATION.**

**ANNEXURE A2: COPY OF THE JUDGMENT DATED 29.9.2011 OF THE JUDICIAL FIRST
CLASS MAGISTRATE-I, VARKALA.**

RESPONDENTS' EXHIBITS

NIL

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

SD

P. UBAID, J.

Crl.M.C.No.2389 of 2015

Dated this the 10th day of April, 2015

O R D E R

The petitioner herein is the 3rd accused in C.C. No.510/2008 of Judicial First Class Magistrate Court-I, Varkala. The offences involved in this case are under Sections 324, 326, 34 and 27 of the Arms Act. The original 2nd accused faced trial before the learned Magistrate, and obtained a judgment of acquittal under Section 248(1) Cr.P.C., when the prosecution did not succeed in proving the guilt of the accused. The prosecution examined six 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 Magistrate acquitted the 2nd accused. The case against the petitioner herein was split up and refiled as C.C.No.782/2011. 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-A2 judgment in C.C.510/2008 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 C.C.No.782/2011 before the Judicial First Class Magistrate Court-I, Varkala will stand quashed under Section 482 of the Code of Criminal Procedure.

Sd/-

P. UBAID, JUDGE

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