

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. 2390 of 2015 ()

**CC 412/2008 of JUDICIAL FIRST CLASS MAGISTRATE COURT-I,VARKALA
CRIME NO. 27/2008 OF VARKALA POLICE STATION, THIRUVANANDAPURAM DISTRICT**
=====

PETITIONER/1ST ACCUSED:

**RAJESH, S/O. RAJENDRA PRASAD
THUSHARA VEEDU, RAGHUNANTHAPURAM
CHERUKUNNU DESAM, VARKALA VILLAGE
THIRUVANANDAPURAM DISTRICT**

BY ADV. SRI.O.D.SIVADAS

RESPONDENT/COMPLAINANT AND STATE:

- 1. THE SUB INSPECTOR OF POLICE
VARKALA POLICE STATION
THIRUVANANTHAPURAM DISTRICT-691001**
- 2. STATE OF KERALA REPRESENTED BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM**

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 FIR IN CRIME NO.27/2008 OF VARKALA POLICE
STATION**

**ANNEXURE-A2: COPY OF THE JUDGMENT DATED 30.11.2011 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.2390 of 2015

Dated this the 10th day of April, 2015

O R D E R

The petitioner herein is the 1st accused in C.C. No.412/2008 of Judicial First Class Magistrate Court-I, Varkala. The offences involved in this case are under Sections 143, 147, 148, 323, 324, 326 and 427 read with 149 IPC. The accused Nos.2 to 5 faced trial before the learned Magistrate, and obtained a judgment of acquittal under Section 248(1) Cr.P.C., 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 three witnesses in the said case, and also marked Exts.P1 to P4. 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 to 5. The case against the petitioner herein was split up and refiled as C.C.No.992/2011. It now stands transferred to the register of long pending cases as

L.P.No.15/2015. 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-A2 judgment in C.C.412/2008 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 L.P.No.15/2015 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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