

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

Crl.MC.No. 2513 of 2015

**C.C.NO.700/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT,
THAMARASSERY**

CRIME NO.38/2009 OF THE THAMARASSERY POLICE STATION, KOZHIKODE

PETITIONER(S)/ACCUSED 1 AND 5 :

- 1. JAISAL, AGED 27 YEARS,
S/O.MUHAMMED, KUNNUMEL HOUSE, EERPPONA,
KEDAVOOR AMSOM, THACHAPOYIL P.O, KOZHIKODE-673 573.**
- 2. ABDURAHIMAN, AGED 28 YEARS,
S/O.AHAMMEDKUTTY, NELLIKUNNUMEL HOUSE, EERPPONA,
KEDAVOOR AMSOM, THACHAPOYIL P.O, KOZHIKODE-673 573.**

BY ADV. SRI.M.H.HANIL KUMAR

RESPONDENT(S)/COMPLAINANT/STATE :

- 1. SALIM, AGED 40 YEARS,
S/O.AHAMMED, KANNEERUPPIL HOUSE, KODAVOOR VILLAGE,
IRPONA DESOM, THACHAPOYIL P.O., KOZHIKODE-673 573,
(DEFACTO COMPLAINANT).**
- 2. SUB INSPECTOR OF POLICE,
THAMARASSERY POLICE STATION, THAMARASSERY P.O,
KOZHIKODE-673 573.**
- 3. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682 031.**

**R1 BY ADVS. SMT.M.R.JAYALATHA
SRI.M.R.DHANIL**

R2 & R3 BY PUBLIC PROSECUTOR SRI.N.SURESH

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 03-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' ANNEXURES :

- ANNEXURE A1: A CERTIFIED COPY OF THE FIRST INFORMATION REPORT
IN CRIME NO.38/2009 ON THE FILES OF THE
THAMARASSERY POLICE STATION DATED 01.02.2009.**
- ANNEXURE A2: A CERTIFIED COPY OF THE FINAL REPORT SUBMITTED
BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT,
THAMARASSERY IN CRIME NO.38/2009 DATED 29.04.2009.**
- ANNEXURE A3: A TRUE COPY OF THE JUDGMENT DATED 13.08.2013 IN
C.C.NO.298/2009 ON THE FILES OF THE JUDICIAL FIRST
CLASS MAGISTRATE COURT, THAMARASSERY.**
- ANNEXURE A4: THE ORIGINAL AFFIDAVIT SWORN BY THE FIRST
RESPONDENT DATED 26.03.2015.**

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

ALEXANDER THOMAS, J.

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Dated this the 3rd day of July, 2015.

ORDER

The petitioners are accused Nos.1 & 5 in Anx-A2 final report/charge sheet filed in Crime No.38/2009 of Thamarassery Police Station, registered for offences under Secs.143, 147, 148, 341, 323 & 324 r/w 149 IPC. The prosecution allegation is that the accused persons attacked the defacto complainant and inflicted injuries. As the petitioners were not available for trial, the case against them was split up. The remaining accused faced trial in C.C.No.298/2009 on the file of the Judicial First Class Magistrate Court-I, Thamarassery, in which the said court as per Anx-A3 judgment rendered on 13.8.2013 had acquitted all the other co-accused. The case against the petitioners is now pending as C.C.No.700/2013 on the file of the above said court. It is the specific case of the petitioners that the substratum of the prosecution case has been shattered by the acquittal of the co-

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accused as per Anx-A3 judgment. Moreover, the 1st respondent (defacto complainant) has sworn to Anx-A4 affidavit stating that the matter has been settled between the parties and that he has no subsisting grievance against the petitioners and that he has no objection in quashing the impugned criminal proceedings pending against the petitioners. It is in the light of these aspects that the prayer for quashment of the impugned criminal proceedings has been made in the instant Crl.M.C.

2. On a close scrutiny of the evidence on record, the court below held that the prosecution has not succeeded in proving any of the offences against the accused. From a reading of Anx-A3 judgment it can be seen that the substratum of prosecution case has been shattered by the acquittal of the co-accused. No meaningful purpose will be subserved by prolonging the agony of the impugned criminal proceedings now pending against the petitioners. Any further continuance of the impugned criminal proceedings would amount to mere wastage of precious resources of the State including that of the judiciary.

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3. In this view of the matter, it is ordered in the interest of justice that the impugned Anx-A2 final report/charge sheet filed in Crime No.38/2009 of Thamarassery Police Station, which is now pending as C.C.No.700/2013 on the file of the Judicial First Class Magistrate Court-I, Thamarassery and all further proceedings arising therefrom pending against the petitioners herein are quashed.

With these observations and directions, this Crl.M.C stands disposed of.

ALEXANDER THOMAS,
Judge.

bkn/-