

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 5TH DAY OF MAY 2015/15TH VAISAKHA, 1937

Crl.MC.No. 2596 of 2015

**CC 1312/2011 OF JUDICIAL FIRST CLASS MAGISTRATE COURT - II, HOSDRUG
CRIME NO. 362/2008 OF BEKAL POLICE STATION, KASARGOD**
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PETITIONER(S)/ACCUSED NOS.2 TO 4:

- 1. JAYESH P., AGED 30 YEARS,
S/O.AMBUNHI, VAZHAVALAPPU, THANCHANGAD,
PANAYAL VILLAGE, KASARAGOD DISTRICT.**
- 2. MUKESH A., AGED 27 YEARS,
S/O.GOPALAN, KANDAN VEEDU, THACHANGAD,
PANAYAL VILLAGE, KASARAGOD DISTRICT.**
- 3. JYOTHISH T., AGED 28 YEARS,
S/O.GOPALAN, THACHANGAD, PANAYAL VILLAGE,
KASARAGOD DISTRICT.**

**BY ADVS.SRI.T.K.VIPINDAS
SRI.K.V.SREE VINAYAKAN
SRI.K.M.MUHAMMED HUSSAIN**

RESPONDENT(S)/STATE:

**THE STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,
REPRESENTING STATION HOUSE OFFICER,
BEAKAL POLICE STATION - 671 123.**

BY PUBLIC PROSECUTOR SRI. K.K.SAIDALAVI

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
05-05-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

Crl.MC.No. 2596 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEUXRE-A1: TRUE COPY OF THE JUDGMENT OF THE C.C.1186/2008 ON THE FILE
OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-II, HOSDURG.**

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P. UBAID, J.

Crl.M.C.No.2596 of 2015

Dated this the 5th day of May, 2015

O R D E R

The petitioners herein are the original accused Nos.2 to 4 in C.C.No.1186/2008 of the Judicial First Class Magistrate Court-II, Hosdurg. The offences involved in this case are under Sections 143, 147, 148 and 324 read with 149 IPC. The original accused Nos.1,5 and 6 faced trial before the trial court and obtained a judgment of acquittal under Section 248(1) Cr.P.C., when all the material witnesses turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. The prosecution examined five witnesses in the said case and also marked Exts.P1 to P6. 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.1,5 and 6. The case against the petitioners herein was split up and refiled as C.C.1312/2011. The petitioners now seek orders quashing the prosecution as against them 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 them will not serve any purpose. Annexure-A1 judgment in C.C.1186/2008 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 petitioners 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 petitioners in C.C.1312/2011 of the Judicial First Class Magistrate Court-II, Hosdurg will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioners will stand released from prosecution, and the bail bond, if any, executed by them will stand discharged.

Sd/-

P. UBAID, JUDGE

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