

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. 2641 of 2015 ()

CC 1036/2011 of JUDICIAL FIRST CLASS MAGISTRATE COURT, TALIPARAMBA

PETITIONERS/ACCUSED NO.1 & 3:

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- 1. MUTHALIB, AGED 34 YEARS, S/O.PACKER,
SIRAKATH PUTHIYA PURAYIL HOUSE, SREEKANDAPURAM
KANNUR DISTRICT.**
 - 2. IBRAHIM, AGED 37 YEARS, S/O.PACKER,
SIRAKATH PUTHIYA PURAYIL HOUSE, SREEKANDAPURAM,
KANNUR DISTRICT.**

BY ADV. SRI.ZUBAIR PULIKKOOL

RESPONDENTS/COMPLAINANT :

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- 1. ABDUL KHADER P.
AGED 63 YEARS, S/O.HUSSAN KUNHI,
PARAMBANMARAKATH HOUSE, C.H.NAGAR
SREEKANDAPURAM AMSOM DESOM,
THALIPARAMBA TALUK, KANNUR DISTRICT-670631**
 - 2. FATHIMA N.P.
AGED 55 YEARS, W/O.ABDUL KHADER,
NEDUMCHIRA PUTHIYAPURAYIL HOUSE, C.H.NAGAR,
SREEKANDAPURAM AMSOM DESOM, TALIPARAMBA TALUK,
KANNUR DISTRICT - 670631**
 - 3. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-6802031**

**R1 & R2 BY ADV. SMT.P.A.ANEESHA
R3 BY PUBLIC PROSECUTOR SRI.P.K.ABDUL RAHIMAN**

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

bp

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNX.I : COPY OF THE FINAL REPORT IN CRIME.326/11 OF SREEKANDAPURAM
POLICE STATION.**

ANNX.II: COPY OF JUDGMENT IN C.C.1036/11 OF JFCM COURT, TALIPARAMBA.

ANNX.III: THE ORIGINAL COPY OF THE AFFIDAVIT OF 1ST RESPONDENT.

ANNX.IV: THE ORIGINAL COPY OF THE AFFIDAVIT OF 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.UBAID, J.

Crl. M.C No.2641 of 2015

Dated this the 5th day of May, 2015.

O R D E R

The petitioners herein are the original accused Nos. 1 and 3 in C.C No.1036 of 2011 of the Judicial First Class Magistrate Court, Taliparamaba involving the offence punishable under Sections 143, 147, 148, 323, 324, 341, 448 r/w 149 of IPC. The accused Nos. 2, 4 and 5 faced trial before the learned Magistrate, and obtained a judgment of acquittal on 30.3.2015 when all the material witnesses turned hostile to the prosecution, in view of an amicable settlement made by the parties out of court. The case against the petitioners herein was split up and refiled as C.C No.289 of 2015. They 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 II judgment in C.C 1036 of 2011 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 No.289 of 2015 before the Judicial First Class Magistrate Court, Taliparamba will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioners will stand released from prosecution.

Sd/-

P.UBAID,
JUDGE