

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. 2661 of 2015 ()

**CC.NO. 2939/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-I,HOSDURG
CRIME NO. 34/2005 OF CHANDERA POLICE STATION , KASARGOD DISTRICT**

PETITIONER(S)/ACCUSED 9 AND 10:

- 1. ASHRAF V.P, AGED 32 YEARS,S/O.LATHEEF,
RESIDING AT VALIYAPEEDIKAYIL HOUSE,
VADAKKUMPADU, NORTH TRIKARIPUR VILLAGE,
HOSDURG TALUK, KASARAGOD DISTRICT.**
- 2. A.G.C.AZAD, AGED 34 YEARS,
S/O.HAMSA, RESIDING AT AZAD MANZIL, THANKAYAM,
NORTH TRIKARIPUR VILLAGE, HOSDURG TALUK,
KASARAGOD DISTRICT.**

BY ADV. SRI.T.MADHU

RESPONDENT/STATE:

**THE STATE OF KERALA,
THROUGH THE STATION HOUSE OFFICER,
CHANDERA POLICE STATION, KASARAGOD DISTRICT,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM -682 031**

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:**

sts

Crl.MC.No. 2661 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

ANNEX A1: THE TRUE CERTIFIED COPY OF THE FIR IN CRIME NO.34/2005 OF CHANDERA POLICE STATION

ANNEX A2: THE TRUE CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.34/2005 OF CHANDERA POLICE STATION

ANNEX A3: THE TRUE CERTIFIED COPY OF THE JUDGMENT DATED 05.06.2007 IN CC.NO.238/2005 ON THE FILES OF THE LEARNED JUDICIAL FIRST CLASS MAGISTRATE'S COURT-I, HOSDURG

ANNEX A4: THE TRUE CERTIFIED COPY OF THE JUDGEMENT DATED 31.03.2010 IN CC.NO.688/2007 ON THE FILE OF THE LEARNED JUDICIAL FIRST CLASS MAGISTRATE' COURT I, HOSDURG

ANNEX A5: THE TRUE CERTIFIED COPY OF THE JUDGMENT DATED 25.10.2014 IN CC.NO.442/2010 ON THE FILE OF THE LEARNED JUDICIAL FIRST CLASS MAGISTRATE'S COURT-I, HOSDURG

RESPONDENT(S)' ANNEXURES: **NIL**

/TRUE COPY/

P.A.TO JUDGE

sts

ALEXANDER THOMAS, J.

Crl.M.C.No.2661 Of 2015

Dated this the 3rd day of July, 2015.

ORDER

The petitioners are accused Nos.9 & 10 in Anx-A2 final report/charge sheet filed in Crime No.34/2005 of Chandera 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 formed themselves into an unlawful assembly and assaulted defacto complainant. As the petitioners were not available for trial, the case against them was split up. The accused Nos.4 to 7 faced trial in C.C.No.238/2005 on the file of the Judicial First Class Magistrate Court-I, Hosdurg, in which the said court as per Anx-A3 judgment rendered on 5.6.2007 had acquitted accused Nos.4 to 7. The case against other accused were split up. Later the 1st accused faced trial in C.C.No.688/2007 on the file of the above said court in which the said court as per Anx-A4 judgment rendered on 31.3.2010 had acquitted the 1st accused. Again the

Crl.M.C.No.2661 Of 2015

case against the remaining accused were split up. Later Accused Nos.3 and 8 faced trial which resulted in Anx-A5 judgment rendered on 25.10.2015 in C.C.No.442/2010 on the file of the above said court. The case against the petitioners (original accused A9 & A10) is now pending as C.C.No.2939/2014 on the file of the Judicial First Class Magistrate Court-I, Hosdurg. It is the specific case of the petitioners that the substratum of the prosecution case has been shattered by the acquittal of the co-accused as per Anx-A3 to A5 judgments. 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 utterly failed to substantiate the charge against the accused. From a reading of Anx-A3 to A5 judgments 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

CrI.M.C.No.2661 Of 2015

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.

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.34/2005 of Chandera Police Station, which is now pending as C.C.No.2939/2014 on the file of the Judicial First Class Magistrate Court-I, Hosdurg and all further proceedings arising therefrom pending against the petitioners herein are quashed.

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

ALEXANDER THOMAS,
Judge.

bkn/-