

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. 2668 of 2015 ()

CC.NO. 521/2010 OF JUDICIAL FIRST CLASS MAGISTRATE COURT., SASTHAMCOTTA
CRIME NO. 311/2004 OF SASTHAMCOTTAH POLICE STATION , KOLLAM DISTRICT

PETITIONER/4TH ACCUSED:

UNNI,
S/O.SUDHAKARAN PILLAI, AGED 34 YEARS,
PUNTHALA KIZHAKKATHIL,
KIDANGAYAM NORTH MURI, PATHARAM,
SOORANAD SOUTH VILLAGE, KOLLAM.

BY ADV. SRI.B.MOHANLAL

RESPONDENT/COMPLAINANT & STATE:

THE STATION HOUSE OFFICER,
SASTHAMCOTTAH POLICE STATION,
KOLLAM DISTRICT THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

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:

sts

Crl.MC.No. 2668 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEX A1: THE TRUE COPY OF THE FIR AND FIS IN CRIME NO.311/2004 OF
SASTHAMCOTTAH POLICE STATION IN KOLLAM DISTRICT IN KOLLAM
DISTRICT**

**ANNEX A2: THE TRUE COPY OF THE FINAL REPORT IN CRIME NO.311/2004 OF
SASTHAMCOTTAH POLICE STATION IN KOLLAM DISTRICT IN KOLLAM
DISTRICT**

**ANNEX A3: THE TRUE COPY OF THE JUDGEMENT DATED 28.04.2010 IN
CC.NO.1118/2004 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT,
SASTHAMCOTTAH**

RESPONDENT(S)' ANNEXURES: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

P. UBAID, J.

Crl.M.C.No.2668 of 2015

Dated this the 5th day of May, 2015

O R D E R

The petitioner herein is the original 4th accused in C.C. No.1118/2004 of the Judicial First Class Magistrate Court, Sasthamcotta. The offences involved in this case are under Sections 143, 147, 451, 342, 332 and 188 read with 149 IPC. The original accused Nos. 1 to 3, 5,6,9 and 11 faced trial before the learned Magistrate, and obtained a judgment of acquittal on 28.04.2010, 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. 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 to 3,5,6,9 and 11. The case against the petitioner herein was split up and refiled as C.C.521/2010. 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 prosecution against him/them will not serve any purpose. Annexure - A3 judgment in C.C.1118/2004 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 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 C.C.521/2010 of the Judicial First Class Magistrate Court, Sasthamcotta will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution.

Sd/-

P. UBAID, JUDGE

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