

**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**

**CrI.MC.No. 2670 of 2015 ()**

**CC 280/2015 of JUDICIAL FIRST CLASS MAGISTRATE COURT-II,HOSDRUG  
CRIME NO. 613/2010 OF NILESWAR POLICE STATION, KASARAGOD**

**PETITIONERS/ACCUSED 3, 5, 8, 10 & 13 :**

- 1. SHEREEF, AGED 35 YEARS,  
S/O.ABOOBACKER, RESIDING AT AP.ROAD, THAIKADAPPURAM,  
NILESHWAR VILLAGE, HOSDURG TALUK, KASARAGOD DISTRICT**
- 2. NABEEL, AGED 32 YEARS,  
S/O.ABDULLA, RESIDING AT SEA ROAD, THAIKADAPPURAM  
NILESHWAR VILLAGE, HOSDURG TALUK, KASARAGOD DISTRICT**
- 3. ASHRAF.C.K., AGED 31 YEARS,  
S/O.RABIYA, RESIDING AT CHENAMMADAM HOUSE,  
THAIKADAPPURAM, NILESHWAR VILLAGE, HOSDURG TALUK,  
KASARAGOD DISTRICT**
- 4. RAFFI, AGED 32 YEARS,  
S/O.IBRAHIM, RESIDING AT NALUPURAPATTIL HOUSE,  
THAIKADAPPURAM, NILESHWAR VILLAGE, HOSDURG TALUK,  
KASARAGOD DISTRICT**
- 5. RIYAS, AGED 28 YEARS,  
S/O.KUNHI MOIDEEN, RESIDING AT PALICHON ROAD,  
THAIKADAPPURAM, NILESHWAR VILLAGE, HOSDURG TALUK,  
KASARAGOD DISTRICT**

**BY ADV. SRI.T.MADHU**

**RESPONDENT/STATE :**

**THE STATE OF KERALA  
THROUGH THE STATION HOUSE OFFICER,  
NILESWAR POLICE STATION, KASARAGOD DISTRICT  
REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM 682031**

**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:**

**bp**

**Crl.MC.No. 2670 of 2015 ()**  
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**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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**ANNEXURE A1: THE TRUE CERTIFIED COPY OF THE FIR IN CRIME NO.613/2010  
OF NILESHWAR POLICE STATION.**

**ANNEXURE A2: THE TRUE CERTIFIED COPY OF THE FINAL REPORT IN CRIME  
NO.613/2010 OF NILESHWAR POLICE STATION.**

**ANNEXURE A3: THE TRUE CERTIFIED COPY OF THE JUDGMENT DATED 02.03.2015  
IN CC.NO.951/2011 ON THE FILES OF THE LEARNED JUDICIAL FIRST  
CLASS MAGISTRATE COURT II, HOSDURG**

**RESPONDENT(S)' EXHIBITS : NIL.**  
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**//TRUE COPY//**

**P.A. TO JUDGE**

**bp**

P. UBAID, J.

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Crl.M.C.No.2670 of 2015  
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Dated this the 5<sup>th</sup> day of May, 2015

O R D E R

The petitioners herein are the original accused Nos.3,5,8,10 and 13 in C.C. No.951/2011 of the Judicial First Class Magistrate Court-II, Hosdurg. The offences involved in this case are under Sections 143,147,148,452,323 and 427 read with 149 IPC. The original accused Nos.1,2,4,6,7,9,11,12 and 14 faced trial before the learned Magistrate, and obtained a judgment of acquittal on 02.03.2015 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 twelve witnesses in the said case and marked Ext.P1. None of the material witnesses examined in the case supported the prosecution. In the absence of any evidence or incriminating circumstance, the learned Magistrate acquitted the accused Nos.1,2,4,6,7,9,11,12 and 14. The case against the petitioners herein was split up and refiled as C.C.280/2015. 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 - A3 judgment in C.C.951/2011 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.280/2015 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.

Sd/-

P. UBAID, JUDGE

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