

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 15TH DAY OF MAY 2015/25TH VAISAKHA, 1937

Crl.MC.No. 2850 of 2015 ()

**(L.P.NO.2/2013 IN CC.NO. 505/2010 OF JUDICIAL FIRST CLASS MAGISTRATE
COURT -III,PALAKKAD)**

PETITIONER/ACCUSED:

**SULFEEKER, AGED 31 YEARS,
S/O.IBRAHIM, CHERIYANPURATHU VEEDU,
PATHIRIPPALA, PALAKKAD.**

BY ADV. SRI.V.A.JOHNSON (VARIKKAPPALLIL)

RESPONDENT(S)/DEFACTO COMPLAINANT/CW.1 AND STATE :

- 1. MANOJ, AGED 35 YEARS, S/O.BHASKARAPANICKER,
KALARICKAL VEEDU, MANNOOR, PALAKKAD-678 005**
- 2. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031**

R1 BY ADV. SRI.P.M.RAFIQ

R2 BY PUBLIC PROSECUTOR SRI.C.K.JAYAKUMAR

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 15-05-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

sts

CRMC.NO.2850/2015

APPENDIX

PETITIONER'S ANNEXURES:

- ANNEX A** **COPY OF THE FIR NO.249/2008 OF MANKARA POLICE STATION.**
- ANNEX B** **COPY OF THE FINAL REPORT IN CRIME NO.249/2008 OF MANKARA
POLICE STATION IN PALAKKAD DISTRICT IN L.P.NO.2/2013 IN
CC.NO.505/2010 ON THE FILE OF THE COURT OF JUDICIAL FIRST
CLASS MAGISTRATE COURT-III, PALAKKAD**
- ANNEX C** **COPY OF THE JUDGMENT IN CC.NO.930/2009 OF THE COURT OF
JUDICIAL FIRST CLASS MAGISTRATE NO.III, PALAKKAD DATED
15/06/2010**
- ANNEX D** **COPY OF THE AFFIDAVIT SWORN BY THE 1ST RESPONDENT HEREIN
EVIDENCING THE AFORESAID FACT OF SETTLEMENT.**

RESPONDENT'S ANNEXURES: **NIL**

/TRUE COPY/

P.A.TO JUDGE

sts

P.UBAID, J.

Crl. M.C No. 2850 of 2015

Dated this the 15th day of May, 2015.

O R D E R

The petitioner herein is the original accused No.3 in C.C No. 930 of 2009 of the Judicial First Class Magistrate Court-III, Palakkad. The offences involved in this case are under Sections 342, 365, 506(ii), 323 r/w 34 of IPC. The other accused 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 3 witnesses in the said case and also 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 others. The case against the petitioner herein was split up and refiled as C.C No.505 of 2010, and it is now pending as L.P No.02 of 2013 before the Judicial First Class Magistrate Court No.III, Palakkad. 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 will not serve any purpose. Annexure C judgment in C.C No.930 of 2009 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 L.P No.02 of 2013 before the Judicial First Class Magistrate Court No.III, Palakkad will stand quashed under Section 482 of the Code of Criminal Procedure.

Sd/-

P.UBAID,
JUDGE