

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

Crl.MC.No. 3058 of 2015 ()

**CC.NO. 311/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT -I,ATTINGAL
CRIME NO. 181/2005 OF PANGODE POLICE STATION,THIRUVANANTHAPURAM**

PETITIONER/ACCUSED NO.4:

**MUHAMMAD BUHARI,
S/O. ABDUL SALAM, AGED 32 YEARS,
PARAKKONATHU VEEDU, PERINGAMALA,
THENNUR VILLAGE, THIRUVANANTHAPURAM**

BY ADV. SRI.JOSEPH SEBASTIAN (KOLLAM)

RESPONDENT(S)/ COMPLAINANT & DEFACTO COMPLAINANT:

- 1. STATE OF KERALA,
REP. BY SUB INSPECTOR OF POLICE,
PANGOD POLICE STATION, REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA-682 031**
- 2. DINESAN @ DINESH,
S/O.SUKUMARA PILLAI, JIJA BHAVAN,
MAVUNINNA PACHA, ANAKUDY, BHARATHANOR,
PANGODE VILLAGE, THIRUVANANTHAPURAM -695 001**

**R1 BY PUBLIC PROSECUTOR SMT. S.HYMA
R2 BY ADV. SRI.LIJU. M.P**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 04-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

sts

Crl.MC.No. 3058 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEX A: TRUE COPY OF CHARGE IN CRIME NO. 181/2005 OF PANGODE POLICE
STATION**

**ANNEX B : TRUE COPY OF JUDGMENT DATED 11.2.2010 IN CC 873/06 ON THE FILE
OF JUDICIAL FIRST CLASS MAGISTRATE COURT-1, ATTINGAL**

ANNEX C: ORIGINAL OF AFFIDAVIT OF 2ND RESPONDENT

RESPONDENT(S)' ANNEXURES:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

ALEXANDER THOMAS, J.

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Crl.M.C.No.3058 of 2015

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Dated this the 4th day of June, 2015

O R D E R

The petitioner herein is arrayed as accused in CC No.311/12013 on the file of Judicial First Class Magistrate Court-I, Attingal and accused No.4 in Crime No. 181/2005 of Pangode Police Station, Thiruvananthapuram registered for offences under Sections 143, 147, 148, 323, 324, 506(i), r/w 149 of the Indian Penal Code. The police after investigation submitted the impugned Annexure A final report/charge sheet. The gist of the prosecution case is that in connection with the running time of a private carriage bus, there occurred a quarrel between the accused persons and the de facto complainant (R2 herein). On 09/05/2005, the accused including the petitioner assaulted the 2nd respondent herein. The petitioner was not available for trial and the case against him was split up. The trial as against the other accused proceeded which led to Annexure B judgment dated 11/02/2010 in CC No.873/2006

where by Judicial First Class Magistrate Court-I, Attingal has acquitted all the said co-accused. Now the case against the petitioner has been re numbered as CC No.311/2013 on the file of JFMC-I, Attingal. It is also stated that all the disputes between the petitioner and the 2nd respondent/de facto complainant have been settled as born out by Annexure C affidavit sworn to by the de facto complainant, in which, he is stated that he has no objection for quashment of the impugned criminal proceedings pending against the petitioner. It is on the basis of the acquittal of the co-accused as per Annexure B judgment and in the light of settlement as born out by Annexure C that the petitioner has filed the instant Criminal Miscellaneous Case praying for quashment of the impugned criminal proceedings.

2. Heard Sri. Joseph Sebastian learned counsel appearing for the petitioner and Sri.M.P.Liju learned counsel appearing for the 2nd respondent and the learned Public Prosecutor appearing for the 1st respondent State of Kerala.

3. On a perusal of Annexure B judgment of acquittal it can be seen that PW1 (R2 herein) as clearly deposed before the court below that he does not know the assailants and that he has not mentioned

their names before the police and that he has declared hostile. PW2 deposed that he did not see the incident wherein PW1 sustained injuries and he was also declared hostile. The main alleged eyewitnesses themselves had deposed that they do not know the assailants, the court below held that there is no evidence whatsoever to connect the accused in the criminal charges and accordingly acquitted the accused. So it is clear like the day light that the substratum of the prosecution case has been shattered by the acquittal of the co-accused as per Annexure B judgment. Moreover, the 2nd respondent/de facto complainant has sworn to Annexure C affidavit stating that he has no objection for quashment of the impugned criminal proceedings pending against the petitioner. In view of all these aspects this Court is of the considered opinion that continuance of the impugned criminal proceedings any further would be meaningless and would result in unavoidable public expenditure and wastage of valuable time and resources of the State. Accordingly it is ordered that impugned Annexure A final report/charge sheet in the impugned Crime No.181/2005 of Pangode Police Station which has now led to the pendency of CC No. 311/2013 on the file of the JFMC-I, Attingal

and all further proceedings arising therefrom pending against the petitioner are quashed.

The Crl.M.C. stands finally disposed of.

Sd/- ALEXANDER THOMAS, JUDGE

MJL

