

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYASHTA, 1937

Crl.MC.No. 3170 of 2015

**C.C.NO.1290 OF 2009, NOW PENDING AS C.C.NO.68 OF 2014 OF JUDICIAL FIRST
CLASS MAGISTRATE COURT-I, HOSDRUG**

CRIME NO. 325/2009 OF CHANDERA POLICE STATION , KASARGOD

PETITIONER(S)/ACCUSED NOS.3 AND 4 :

- 1. P.SALIM, AGED 29 YEARS,
S/O.MAHAMOOD, NAPPAYIL HOUSE, VALIYAKUTHIR,
UDUMBANTHALA, THEKKE TRIKARIPUR GRAMAM.**
- 2. M.YUNAS, AGED 32 YEARS,
S/O.HASSAN @ ASSAINAR, MADAMBILLATH HOUSE,
UDUMBANTHALA, THEKKE TRIKARIPUR GRAMAM.**

BY ADV. SRI.P.K.SUBHASH

RESPONDENT(S)/STATE :

**STATE - REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

BY PUBLIC PROSECUTOR SMT.S.HYMA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 02-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

**ANNEXURE-AI: A TRUE COPY OF THE F.I.R.IN CRIME NO.325 OF 2009 OF
CHANDERA POLICE STATION, KASARAGOD DISTRICT.**

ANNEXURE-AII: A TRUE COPY OF THE FINAL REPORT.

ANNEXURE AIII: A TRUE COPY OF THE JUDGMENT DATED 28.11.2012.

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

ALEXANDER THOMAS, J.

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Dated this the 2nd day of June, 2015.

ORDER

Petitioners are original accused Nos.3 & 4 in the impugned Annexure-AI Crime No.325/2009 of Chandera Police Station, Kasaragode District registered for offences under Secs.143, 147, 148, 341, 506(ii), 324 r/w 149 IPC. The police after investigation submitted the impugned Annexure-AII Final Report/Charge Sheet in the above said Crime No.325/2009. The gist of the prosecution allegation is that on 28.8.2008 at about 22:00 hrs, the accused persons formed unlawful assembly with deadly weapons to commit the offence of rioting and restrained charge witness, CW1 and attacked him causing simple hurt to him and thereby committed the offences as alleged by the prosecution. Altogether there are six accused persons in the crime. As the petitioners were not available for trial, the case against the petitioners were split up and renumbered as C.C.No.68/2014 on the file of the Judicial First Class Magistrate Court-I, Hosdurg and the case against accused Nos.2, 5 & 6 were proceeded. The court below as per Annexure-A3 judgment rendered on 28.11.2012 in C.C.No.1290/2009

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on the file of the Judicial First Class Magistrate Court-I, Hosdurg had acquitted the co-accused (A2, A5 & A6). The petitioners contend that the substratum of the prosecution case has been shattered by the acquittal of the co-accused rendered by the court below as per Annexure-A3 judgment and accordingly, the petitioners pray in the instant Crl.M.C that the impugned criminal proceedings may be quashed.

2. The court below clearly held that there are no evidence to prove the criminal charges against the accused persons and accordingly the said accused were acquitted by Annexure-A3 judgment. On a reading of Annexure-A3 judgment it is crystal clear that the substratum of prosecution case is demolished 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 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 Annexure-AII Final Report/Charge Sheet filed in Annexure-AI Crime No.325/2009 of Chandera Police Station which

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has led to the pendency of C.C.No.68/2014 on the file of the Judicial First Class Magistrate Court-I, Hosdurg pending against the petitioners and all further proceedings arising therefrom pending against the petitioners are quashed.

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

ALEXANDER THOMAS,
Judge.

bkn/-