

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 27TH DAY OF MARCH 2015/6TH CHAITHRA, 1937

Cr1.MC.No. 2276 of 2014

AGAINST THE JUDGMENT IN SC 210/2013 of ADDL. SESSIONS COURT -
III, KASARAGOD

CRIME NO. 86/2012 OF CHANDERA POLICE STATION , KASARGOD

PETITIONERS/ACCUSED:

1. M. ABDULLA,
S/O MOHAMMAD, ALEENAPURAM, THURUTHI,
CHERUVATHOOR VILLAGE, KASARGOD DISTRICT.
2. MOHAMMAD RASHEED,
S/O ABDUL SALAM, ANHIRA HOUSE, ALEENAPURAM,
CHERUVATHOOR VILLAGE, KASARGOD DISTRICT.
3. SHUKKOOR,
S/O. HASSAINAR, ALEENAPURAM, THURUTHI,
CHERUVATHOOR VILLAGE, KASARAGOD DISTRICT.
4. SAYED,
ALEENAPURAM, THURUTHI, CHERUVATHUR VILLAGE
KASARAGOD DISTRICT.

BY ADVS.SRI.M.RAMESH CHANDER (SR.)
SRI.ANEESH JOSEPH
SMT.DENNIS VARGHESE

RESPONDENT/RESPONDENT:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM, PIN:682031.

BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 27-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 2276 of 2014

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE A1: PHOTOSTAT COPY OF THE FIRST INFORMATION REPORT IN
CRIME NO.86/2012

ANNEXURE A2: PHOTOSTAT COPY OF THE JUDGMENT IN SC NO.58/2013
DATED 5.8.2013.

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.2276 of 2014

Dated this the 27th day of March, 2015

O R D E R

The petitioners herein are the original accused Nos.1, 2, 5 and 6 in crime No.86/2012 of the Chandera Police Station. The original accused Nos.3, 4 and 7 faced trial before the learned Additional Sessions Judge (Ad Hoc) III, Kasaragod in S.C No.58/2013 and obtained a judgment of acquittal under Section 232 of the Code of Criminal Procedure when none of the prosecution witness supported the prosecution. In the said case the prosecution examined four witness and marked Exhibit P1 document. PW1, the defacto complainant/injured, PWs 2 and 3, the other injured, and PW4 the only eye witness cited by the prosecution, turned hostile during trial. In such a circumstance, examination of the others was dispensed with by the trial court and the learned trial judge acquitted the accused Nos.3, 4 and 7. The case against these petitioners was split up as S.C No.210/2013. Subsequently it was transferred to the register of long pending cases, and it now stands refiled as S.C No.769/2014. The petitioners 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 A2 judgment in S.C No.58/2013 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 S.C No.769/2014 of the Additional Sessions Court (Adhoc) III, Kasaragod will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioners will stand released from prosecution.

**P.UBAID
JUDGE**

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The case numbers "L.P.C No.49/2013 of the Additional Sessions Court (Adhoc)-III, Kasaragod and L.P.C No.58/2014 of the Judicial First Class Magistrate Court-I, Hosdurg are inserted between the words "Kasaragod" and "will" in the 3rd line at page 2 of the operative portion of the final order dated 27.3.2015 in Crl.M.C No.2276/2014 as per order dated 23.11.2015 in Crl.M.A No.10345/2015 in Crl.M.C No.2276/2014.

Sd/-
Registrar (Judicial)