

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

Crl.MC.No. 2511 of 2014 ()

AGAINST THE JUDGMENT IN CC 850/2006 of J.M.F.C.-II, NEYYATTINKARA
CRIME NO. 20/2000 OF VIZHINJAM POLICE STATION , THIRUVANANDAPURAM

PETITIONERS/ACCUSED NO.1 AND 2:

1. SAJEEV
S/O BABU, THEKKEKONAM KAVUNADA, KOTTUKAL DESOM
KOTTUKAL VILLAGE, NEYYATTINKARA.
2. BIJU
S/O CHANDRAN, SANDHYA BHAVAN, VATTAVILA
KOTTUKAL DESOM, KOTTUKAL VILLAGE, NEYYATTINKARA.

BY ADV. SRI.S.MOHAMMED AL RAFI

RESPONDENT(S)/RESPONDENTS/STATE:

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

R BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE.P

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
10-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 2511 of 2014 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A: TRUE COPY OF FIRST INFORMATION REPORT IN CRIME NO.20/2000 OF VIZHINJAM POLICE STATION.

ANNEXURE B: TRUE COPY OF FINAL REPORT IN CRIME NO.20/2000 OF VIZHINJAM POLICE STATION.

ANNEXURE C: TRUE COPY OF THE JUDGMENT IN C.C.NO.366/2000 OF JUDICIAL FIRST CLASS MAGISTRATE COURT II, NEYYATTINKARA.

ANNEXURE D: TRUE COPY OF THE JUDGMENT IN C.C.NO.850/2006 OF JUDICIAL 1ST CLASS MAGISTRATE COURT II, NEYYATTINKARA.

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**Crl.M.C No.2511 of 2014**  
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Dated this the 10th February, 2015

ORDER

The petitioners herein are the accused Nos.9 and 14 in C.C No.366 of 2000 of the Judicial First Class Magistrate's Court-II, Neyyattinkara. The offences involved in this case are under Sections 143, 147 and 283 read with 149 of Indian Penal Code. The other accused faced trial at two different stages in the trial court in C.C No.366 of 2000 and C.C No.850 of 2006 and obtained judgment of acquittal under Section 255 (1) of Cr.P.C when nobody supported the prosecution in view of an amicable settlement made by the parties out of court. The prosecution examined four witnesses and marked Exts.P1 to P4 in C.C 366 of 2000 and in C.C No.850 of 2006. When nobody supported the prosecution, examination of the remaining witnesses was dispensed with, and evidence was closed by the trial court. In the absence of any evidence or incriminating circumstance, the learned Magistrate acquitted all the other accused. The case against the petitioners herein was split up and refiled as C.C No.148 of 2014 before the same court. 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 C and D judgments will show that all the material witnesses examined by the prosecution in the said cases 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 go 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 No.148 of 2014 before the Judicial First Class Magistrate Court-II, Neyyattinkara will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioners will stand released from prosecution, and the bail bond, if any, executed by them will stand discharged.

Sd/-
P.UBAID
JUDGE

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/True copy/

P.S to Judge