

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE P.UBAID**

**WEDNESDAY, THE 7TH DAY OF OCTOBER 2015/15TH ASWINA, 1937**

**Crl.MC.No. 3906 of 2015 (F)**  
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**CC 545/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-II, KANNUR**

**PETITIONER(S)/ACCUSED NO.5 :-**  
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**BALAMANI, AGED 59 YEARS,  
D/O.LAKSHMI, VAYALILPURAYIL HOUSE,  
TALIPARAMBA AMSOM,  
KARIMBAM, KANNUR DISTRICT.**

**BY ADV. SRI.IEANS.C.CHAMAKKALA**

**RESPONDENT(S) :-**  
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**1. STATE OF KERALA,  
REPRESENTED BY THE PUBLIC PROSECUTOR  
HIGH COURT OF KERALA - 682 031.**

**2. SHYNA P.V., AGED 43 YEARS,  
D/O.ACHUTHAN K.P., PALLIVALAPIL HOUSE,  
AZHEEKODE SOUTH, KANNUR - 670 001.**

**R1 BY SRI.JUSTIN JACOB, PUBLIC PROSECUTOR  
R2 BY ADV. SRI.P.K.RAVISANKAR**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 07-10-2015,  
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**Crl.MC.No. 3906 of 2015 (F)**  
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**APPENDIX**

**PETITIONER(S)' ANNEXURES :-**  
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**ANNEXURE-A1: CERTIFIED COPY OF THE PRIVATE COMPLAINT.**

**ANNEXURE-A2: CERTIFIED COPY OF THE F.I.R.**

**ANNEXURE-A3: CERTIFIED COPY OF THE CHARGE SHEET.**

**ANNEXURE-A4: CERTIFIED COPY OF JUDGMENT IN C.C NO.274/2010 OF THE  
JUDICIAL FIRST CLASS MAGISTRATE COURT - II, KANNUR.**

**ANNEXURE-A5: CERTIFIED COPY OF THE DEPOSITION OF THE 2ND  
RESPONDENT/PW1 IN C.C. 274/2010 OF THE JUDICIAL FIRST CLASS  
MAGISTRATE COURT - II, KANNUR.**

**RESPONDENT(S)' ANNEXURES :- NIL**  
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**//TRUE COPY//**

**P.A.TO JUDGE**

**rkj**

**P.UBAID, J.**

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**Crl.M.C.No.3906 of 2015**

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Dated this the 7<sup>th</sup> day of October, 2015

**ORDER**

The petitioner herein is the original 5<sup>th</sup> accused in C.C.No.274 of 2010 of the Judicial First Class Magistrate Court-II, Kannur. The other four accused faced trial before the learned Magistrate, and obtained a judgment of acquittal on 13.08.2013. The case against the petitioner herein was split up and refiled, when she absconded. Later, she surrender before the learned Magistrate, and now the case is pending as C.C.No.545 of 2015. The petitioner seeks orders quashing the prosecution as against her on the ground that the very substratum of the prosecution case stands lost due to the acquittal of the accused Nos. 1 to 4.

2. The second respondent herein is the defacto complainant. She has filed statement of objection that she has already preferred an appeal against the judgment of

acquittal before the Court of Session, Thalassery as Crl.Appeal No.330 of 2013. When the judgment of acquittal is under challenge, the petitioner cannot seek orders quashing the prosecution against him. I am not inclined to allow the petitioner's request at this stage, when appeal against the acquittal is pending. Without prejudice to the petitioner's right to bring appropriate proceeding, subject to the result of the appeal, this Crl.M.C. can be closed.

In the result, this Crl.M.C. is dismissed, without prejudice to the right of the petitioner to bring appropriate proceeding at a later stage, subject to the result of the appeal challenging the acquittal of the accused Nos. 1 to 4.

Sd/-  
**P.UBAID  
JUDGE**

rkj

//TRUE COPY//

P.A. TO JUDGE