

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 27TH DAY OF JULY 2015/5TH SRAVANA, 1937

Crl.MC.No. 3951 of 2015 ()

**AGAINST THE ORDER/JUDGMENT IN CC 681/2013 of J.M.F.C.,CHANGANACHERRY
CRIME NO. 21/2005 OF CHINGAVANAM POLICE STATION , KOTTAYAM**

PETITIONER(S)/3RD ACCUSED:

**P.M SCARIA @ KUNJUMON,
PATHIYIL HOUSE, PUTHENCHANDA, VAKATHANAM,**

BY ADV. SRI.AYPE JOSEPH

RESPONDENT(S):

**STATE,
REP.BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM 682031**

R BY SMT.SREELATHA PARAMESWARAN, PUBLIC PROSECUTOR

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
27-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

SD

Crl.MC.No. 3951 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS:

ANNEXURE A1: CERTIFIED COPY OF THE JUDGMENT JFCM 1 CHANGANASSERY

RESPONDENT(S)' EXHIBITS - NIL

TRUE COPY

PA TO JUDGE

P. UBAID, J.

Crl.M.C. No.3951 of 2015

Dated this the 27th day of July, 2015

O R D E R

The petitioner herein is the 3rd accused in C.C.466/2006 of the Judicial First Class Magistrate Court-I, Changanacherry. The offences involved in this case are under Sections 451, 341, 323 and 506(ii) read with 34 IPC. The original accused Nos.1,2 and 4 faced trial before the trial court and obtained a judgment of acquittal under Section 248(1) Cr.P.C., when all the material witnesses including the first informant/de facto complainant turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. The prosecution examined two witnesses in the said case including the first informant/de facto complainant injured, and also marked Ext.P1. None of the material witnesses examined in the case supported the prosecution. In such a circumstance, examination of the others was dispensed with, and evidence was closed by the trial court. In the absence of any evidence or incriminating circumstance, the learned Magistrate acquitted the accused Nos.1,2 and 4. The case against the petitioner herein was split up and refiled and now it is pending as C.C.681/2013. The petitioner now seeks orders quashing the prosecution as against him on the

ground that the very substratum of the prosecution case is totally lost by the acquittal of the others, and continuance of the prosecution against him will not serve any purpose. Annexure-A1 judgment in C.C.466/2006 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 petitioner 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 petitioner in C.C.681/2013 Judicial First Class Magistrate Court-I, Changanacherry, will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution, and the bail bond, if any, executed by him will stand discharged.

Sd/-
P. UBAID, JUDGE

TRUE COPY

P.A TO JUDGE

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