

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

Crl.MC.No. 3039 of 2014 ()

CC 102/2011 of JUDICIAL FIRST CLASS MAGISTRATE COURT-I, HOSDRUG

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PETITIONER(S)/ACCUSED NOS.2,3 & 6:

- 1. FIROZ.V.V., AGED 24 YEARS
S/O.MOHAMEDKUNHI, RESIDING AT MADIYAN ROAD
P.O.MANIKOTH, AJANUR VILLAGE, HOSDURG
KASARGOD DT.**
- 2. ISMAIL, S/O.ABOOBACKER, RESIDING AT MADIYAN ROAD
P.O.MANIKOTH, AJANUR VILLAGE, HOSDURG, KASARGOD DT.**
- 3. RAFEEQ, RESIDING AT MADIYAN ROAD, P.O.MANIKOTH
AJANUR VILLAGE, HOSDURG, KASARGOD DT.**

**BY ADVS.SRI.K.R.AVINASH (KUNNATH)
SRI.ABDUL RAOOF PALLIPATH**

RESPONDENTS/DEFACTO COMPLAINANTS & STATE:

- 1. MANOJ.K., S/O.KUNHAMBU, RESIDING AT KOLAVAYAL
HOSDURG TALUK, CHITHARI VILLAGE, KASARGOD-671316.**
- 2. MAHESH.K.,S/O.DAMODARAN, RESIDING AT KOLAVAYAL
HOSDURG TALUK, CHITHARI VILLAGE, KASARGOD-671316.**
- 3. DHANEESH.K., S/O.PRAKASHAN, RESIDING AT KOLAVAYAL
HOSDURG TALUK, CHITHARI VILLAGE, KASARGOD-671316.**
- 4. SUBHASH, S/O.PRAKASHAN, RESIDING AT KOLAVAYAL
HOSDURG TALUK, CHITHARI VILLAGE, KASARGOD-671316.**
- 5. THE STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.**

**R5 BY PUBLIC PROSECUTOR SMT. P. MAYA
R1-R4 BY SRI.C.H.ABDUL RASAC**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 09-02-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS

ANNEXURE-A1: COPY OF THE FINAL REPORT IN CRIME NO.203/2008.

ANNEXURE-A2: COPY OF THE AFFIDAVIT SWORN IN BY RESPONDENTS 1 TO 4.

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.3039 of 2014

Dated this the 9th day of February, 2015

O R D E R

The petitioners herein are the original accused Nos.2,3 and 6 in C.C. No. 1316/2008 of the Judicial First Class Magistrate Court-I, Hosdurg. The offences involved in this case are under Sections 143,147,148,341,323 ad 324 IPC read with146 IPC. All accused except the petitioners faced trial before the trial court and obtained a judgment of acquittal when all the material witnesses 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, 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 all the accused. The case against the petitioners herein was split up and refiled as C.C.No.102/2011, and it is now pending before the Judicial First Class Magistrate Court-I, Hosdurg. 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. 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 C.C.No.102/2011 before the Judicial First Class Magistrate Court-I, Hosdurg 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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