

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

FRIDAY, THE 10TH DAY OF JULY 2015/19TH ASHADHA, 1937

Crl.MC.No. 4265 of 2015 ()

**CC.NO. 1283/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT -II,
PERINTHALMANNA
CRIME NO. 446/2013 OF MELATTUR POLICE STATION , MALAPPURAM DISTRICT**

PETITIONER/6TH ACCUSED:

**MOHAMMED ASLAM ALI ABEEB,
S/O.HAMZA, AGED 24 YEARS, CHERIYADAN HOUSE,
PALLIKKUTH, CHUNDAM, PATTIKKAD,
MALAPPURAM DISTRICT.**

BY ADV. SRI.U.K.DEVIDAS

RESPONDENT/COMPLAINANT/STATE:

**STATE OF KERALA,
REPRESENTED THROUGH THE SUB INSPECTOR OF POLICE,
MELATTUR IN CRIME NO.446 OF 2013 OF MELATTUR
POLICE STATION, BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.N.SURESH

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 10-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

sts

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APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEX-I TRUE COPY OF THE F.I.R IN CRIME NO.446/2013 OF THE MELATTUR
POLICE STATION DATED, 07/08/2013**

**ANNEX-II TRUE COPY OF THE FINAL REPORT IN CRIME NO.446/2013 OF
MELATTUR POLICE STATION. DATED, 25.08.2013**

**ANNEX-III CERTIFIED COPY OF THE JUDGMENT DATED 29.08.2013 IN
C.C.NO.1283/2013 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE
COURT-II, PERINTHALMANNA.**

RESPONDENT(S)' ANNEXURES: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

ALEXANDER THOMAS, J.

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Dated this the 10th day of July, 2015.

ORDER

The petitioner is the original 6th accused in the impugned Anx-II final report/charge sheet filed in Crime No.446/2013 of Melattur Police Station registered for offences under Secs.143, 147, 148, 447, 323 & 324 r/w 149 of the IPC. The prosecution allegation is that the accused persons, six in numbers, formed themselves into an unlawful assembly with the common object of committing rioting armed with deadly weapon and wrongfully restrained the defacto complainant and CWs 2 & 3 and caused hurt to them. Except, the petitioner all other accused (A1 to A5) faced trial in C.C.No.1283/2013 on the file of the Judicial First Class Magistrate Court-II, Perinthalmanna, in which the said court as per Anx-III judgment dated 29.8.2014 had acquitted accused Nos.1 to 5 therein. Since the petitioner failed to appear before the court below and face the trial, the case against him was split up and is now pending as C.C.No.865/2014 on the file of the Judicial First Class Magistrate Court-II, Perinthalmanna. It is the specific case of the petitioner that

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the substratum of the prosecution case has been shattered by the acquittal of the co-accused as per Anx-III judgment. It is in the light of these aspects that the petitioner has filed this Crl.M.C seeking the prayer for quashment of the impugned criminal proceedings.

2. On a close scrutiny of the evidence on record, the court below held that the injured had turned hostile to the prosecution and deposed that the assailants are not known to them and also deposed that the matter has been amicably settled and they have no complaint against the accused and the occurrence witness also turned hostile to the prosecution and deposed that he did not see the incident and accordingly, the prosecution given up the remaining witnesses. From a reading of Anx-III judgment it can be seen that the substratum of prosecution case has been shattered by the acquittal of the co-accused. No meaningful purpose will be subserved by prolonging the agony of the impugned criminal proceedings now pending against the petitioner. Any further continuance of the impugned criminal proceedings would amount to mere wastage of precious resources of the State including that of the judiciary.

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3. In this view of the matter, it is ordered in the interest of justice that the impugned Anx-II final report/charge sheet filed in Crime No.446/2013 of Melattur Police Station, which is now pending as C.C.No.865/2014 on the file of the Judicial First Class Magistrate Court-II, Perinthalmanna, and all further proceedings arising therefrom pending against the petitioner herein stand quashed under Sec.482 of the Code of Criminal Procedure.

With these observations and directions, this Crl.M.C stands finally disposed of.

ALEXANDER THOMAS,
Judge.

bkn/-