

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

Cr1.MC.No. 4303 of 2015

IN C.C NO.300/2013 of C.J.M, MANJERI

CRIME NO. 360/2009 OF AREACODE POLICE STATION, MALAPPURAM

PETITIONER/1ST ACCUSED:

M.T.MUHAMMEDKUTTY,
S/O MOYINKUTTY MANGATTUPARAMNBAN,
THAZHATHUMANGATT HOUSE, OMANOOR-PO
MALAPPURAM DISTRICT

BY ADV. SRI.P.VENUGOPAL (1086/92)

RESPONDENTS/STATE & DEFACTO-COMPLAINANT:

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1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA. ERNAKLULAM-682 031
 2. RUKHIYA,
D/O CHOLAYIL AHAMEDKUTTY HAJI, MUNDKKAL-PO,
KONDOTTY TALUK, MALAPPURAM DISTRICT PIN-0 673 645

R2 BY ADV. SMT.T.J.MARIA GORETTI
R1 BY PUBLIC PROSECUTOR SMT.V.H JASMINE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 13-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 4303 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A1: COPY OF THE FINAL REPORT SUBMITTED BY THE FIRST
RESPONDENT IN CRIME NO 360/09 OF ARECODE POLICE STATION

ANNEXURE A2: COPY OF THE JUDGMENT DT. 24/10/13 PASSED BY THE CJM
COURT, MANJERI IN CC NO 15/10.

ANNEXURE A3: THE AFFIDAVIT EXECUTED BY THE SECOND RESPONDNET DT.
7/4/15

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.4303 of 2015

Dated this the 13th day of July, 2015

O R D E R

The petitioner herein is the original 1st accused in C.C No.15/2010 of the Chief Judicial Magistrate Court, Manjeri. The offences involved in the case are under Sections 498A and 406 r/w 34 of the Indian Penal Code. The original accused Nos. 2 and 3 faced trial before the trial court and obtained a judgment of acquittal under Sections 248(1) of the Code of Criminal Procedure 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 eight witnesses in the said case including the first informant/de facto complainant and also marked Exts.P1 to P3. 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.2 and 3. The case against the petitioner herein was split up and refiled as C.C. No.300/2013 and it is now pending before Chief Judicial Magistrate Court, Manjeri. 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 prosecution against him will not serve any purpose. Annexure B judgment in C.C No.15/2010 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. Anyway, the parties have now come to terms, and the defacto complainant has filed affidavit to the effect that the dispute stands settled and she has no grievance or complaint.

In the result, this petition is allowed. The prosecution against the petitioner in C.C No.300/2013 before the Chief Judicial Magistrate Court, Manjeri 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.

**P.UBAID
JUDGE**

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