IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

Crl.MC.No. 4343 of 2015

C.P.NO.90 OF 2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-1, HOSDURG

CRIME NO.1247 OF 2010 OF HOSDURG POLICE STATION , KASARGOD

PETITIONER(S)/ACCUSED (ORIGINALLY A2) :

V.P.JAFFER, AGED 25 YEARS,
S/O.ALI, RESIDING AT ANANTHAMPALLAM, KANHANGAD VILLAGE,
KASARAGOD DISTRICT.

BY ADV. SRI.K.P.HARISH

RESPONDENT(S)/STATE OF KERALA :

STATE OF KERALA,
REPRESENTED 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 14-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Msd.

Crl.MC.No. 4343 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES :

ANNEXURE-A1: **THE TRUE COPY OF FIR AND F1 STATEMENT DATED 16.11.2010 IN CRIME NO.1247 OF 2010 OF HOSDURG POLICE STATION.**

ANNEXURE-A2: **A TRUE COPY OF THE FINAL REPORT DATED 30.12.2010 IN CRIME NO.1247 OF 2010 AS NUMBERED AS C.P.NO.70 OF 2011 ON THE FILES OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I, HOSDURG.**

ANNEXURE-A3: **A TRUE COPY OF THE JUDGMENT IN S.C.NO.782/2012 DATED 25.04.2014 OF THE ADDITIONAL DISTRICT AND SESSIONS JUDGE-III, KASARAGOD.**

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

ALEXANDER THOMAS, J.

Crl.M.C.No.4343 Of 2015

Dated this the 14th day of July, 2015.

ORDER

The petitioner herein is the original 2nd accused in Crime No.1247/2010 of Hosdurg Police Station registered for offences under Secs.341, 324, 308 r/w 34 of the IPC. The prosecution allegation is that the accused persons along with others with a common intention to commit the offence on account of previous enmity wrongfully restrained the complainant and stabbed him causing injuries to him. Initially, the learned Magistrate had taken the case on file as C.P.No.70/2011 and committed to the Additional District and Sessions Court-III, Kasaragod and the same was numbered as S.C.No.782/2012. The case against the 1st accused was also committed to the Sessions Court as S.C.No.1174/2012 and the same was clubbed with S.C.No.782/2012. The learned Sessions Judge as per judgment dated 25.4.2014 in S.C.No.782/2012 acquitted accused therein (A1 & A3). As the petitioner (A2) was not available for trial, the case against him was split up and

renumbered as C.P.No.74/2012 and further registered as L.P.C.No.85/2012. Later the petitioner entered appearance and the case against him is now pending as C.P.No.90/2015 on the file of the Judicial First Class Magistrate Court-I, Hosdurg. It is the specific case of the petitioner that the substratum of the prosecution case has been shattered by the acquittal of the co-accused as per Anx-A3 judgment. It is in the light of these aspects that the prayer for quashment of the impugned criminal proceedings has been made in the instant Crl.M.C.

2. On a close scrutiny of the evidence on record, the court below held that the witnesses examined by the prosecution including the injured were turned hostile and tendered evidence against the prosecution. They did not support the prosecution case and hence the prosecution closed the evidence and gave up the remaining witnesses and that the matter has been settled between the parties out of court. From a reading of Anx-A3 judgment it can be seen that the substratum of prosecution case has been shattered by the acquittal of the co-accused. Moreover, the matter has been settled between the parties out of court. 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.

3. In this view of the matter, it is ordered in the interest of justice that the impugned Anx-A2 Final Report/Charge Sheet filed in Crime No.1247/2010 of Hosdurg Police Station which is now pending as C.P.No.90/2015 on the file of the Judicial First Class Magistrate Court-I, Hosdurg, and all further proceedings arising therefrom pending against the petitioner herein stand quashed.

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

ALEXANDER THOMAS,
Judge.

bkn/-