

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 24TH DAY OF JULY 2015/2ND SRAVANA, 1937

CrI.MC.No. 4458 of 2015 ()

CRIME NO. 92/2012 OF MANNAR POLICE STATION , ALAPPUZHA

PETITIONER/ACCUSED-A3 :

**BIJU, AGED 36 YEARS
S/O.KUTTAN, SANTHI BHAVAN, CHERUKOLE MURI,
CHENNITHALA VILLAGE, CHENGANNUR TALUK
ALAPPUZHA DISTRICT.**

BY ADV. SRI.AJITH MURALI

RESPONDENT(S)/STATE & COMPLAINANT :

- 1. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682031.**
- 2. SHEENA,, AGED 30 YEARS
W/O.RIJU, ASWATHY BHAVAN, PATHIYOOR EAST MURI
PATHIYOOR VILLAGE, ALAPPUZHA DISTRICT-688 001.**

**R2 BY ADV. SRI.P.V.DILEEP
R1 BY SMT.S.HYMA, PUBLIC PROSECUTOR**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
24-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

AMV

: 2 :

Crl.MC.No. 4458 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE-A : COPY OF THE CHARGE SHEET IN CRIME NO.92/2012 OF
MANNAR POLICE STATION.**

**ANNEXURE-B : COPY OF THE ORDER IN C.C.61/2014 PASSED BY
JUDICIAL FIRST CLASS MAGISTRATE COURT-I,
CHENGANNUR.**

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

PA.TO JUDGE

AMV

P. UBAID, J.

Crl.M.C. No.4458 of 2015

Dated this the 24th day of July, 2015

O R D E R

The petitioner herein is the original accused No.3 in C.C.493/2012 of of the Judicial First Class Magistrate Court-I, Chengannur. The offences involved in this case is under Sections 498(A) and 406 IPC. The original accused Nos. 1 and 2 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 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 and 2. The case against the petitioner was later split up and refiled as C.C.No. 3030/2015. 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.61/2014 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.No. 3030/2015 before the Judicial First Class Magistrate Court-I, Chengannur, 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

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