

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 19TH DAY OF NOVEMBER 2015/28TH KARTHIKA, 1937

Crl.MC.No. 3559 of 2013 (A)

**SC 171/2013 OF THE COURT OF the ASSISTANT SESSIONS JUDGE(PRINCIPAL),
PALAKKAD**

PETITIONER/ACCUSED :-

**SHOUKATH, AGED 29 YEARS,
S/O.HAMZA, MALAYIL HOUSE, KACHERIPARAMBU,
THIRUVIZHAMKUNNU, KOTTOPADAM, MANNARKKAD,
PALAKKAD DISTRICT.**

BY ADV. SRI.SUNNY MATHEW

RESPONDENT(S)/COMPLAINANT AND STATE :-

- 1. THE SUB INSPECTOR OF POLICE,
MANNARKKAD POLICE STATION,
PALAKKAD DISTRICT - 673 001.**
- 2. THE CIRCLE INSPECTOR OF POLICE,
MANNARKKAD - 673 001.**
- 3. STATE OF KERALA,
REP BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM - 682 031.**

*** ADDITIONAL R4**

**SMT.SULAIKA, W/O.MOHAMMED ALI,
VADAKKETHIL HOUSE, KACHERIPARAMBU,
THIRUVIZHAMKUNNU, PALAKKAD DISTRICT-678001**

**IS IMPEADED AS ADDITIONAL R4 AS PER ORDER DATED 6.9.2013 IN
CRL.M.A.6909/IN CRL.M.C.3559/13.**

**R4 BY ADV. SRI.C.C.ANOOP
R BY SMT.SHEEBA M.T., PUBLIC PROSECUTOR**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 19-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

rkj

Crl.MC.No. 3559 of 2013 (A)

APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNEXURE A1 :- TRUE COPY OF THE FINAL REPORT IN SC NO 171/2013 ON THE
FILE OF THE COURT OF THE ASSISTANT SESSIONS JUDGE
(PRINCIPAL), PALAKKAD.**

**ANEXURES A2 :- TRUE COPY OF THE JUDGMENT DTD 28/10/2011 PASSED BY THE
COURT OF THE ASSISTANT SESSIONS JUDGE(PRINCIPAL),
PALAKKAD IN SC 309/2008.**

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

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P.UBAID, J.

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Crl.M.C.No.3559 of 2013

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Dated this the 19th day of November, 2015

ORDER

The petitioner herein is the original accused No.2 in S.C.No. 309 of 2008 of the Court of Session, Palakkad. The first accused faced trial before the trial court, and obtained a judgment of acquittal on 28.10.2011. The offences involved in this case are under Sections 450 and 376 read with Section 34 of the Indian Penal Code. The first accused obtained a judgment of acquittal under Section 235(1) Cr.P.C. when 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 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 Judge. In the absence of any evidence or incriminating circumstance, the learned trial

Judge acquitted the first accused. The case against the petitioner was split up and re-filed as S.C.No.171 of 2013. 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-2 judgment in S.C.No. 309 of 2008 shows that 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. The Annexure -2 Judgment also shows that after the alleged incident, the first accused married the victim, and in such a circumstance the prosecution was not pursued by the victim and others.

In the result, this petition is allowed. The prosecution against the petitioner in S.C.No.171 of 2013 of the Court of Session, Palakkad 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**

rkj

//TRUE COPY//

P.A. TO JUDGE