

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 28TH DAY OF JULY 2015/6TH SRAVANA, 1937

Crl.MC.No. 4748 of 2015

SC 202/2008 OF ADDITIONAL SESSIONS COURT - II, KALPETTA

PETITIONER :-

**RAJESH, S/O.RAMACHANDRAN,
AGED 31 YEARS, MADAI HOUSE, MEPPAYUR AMSOM,
NOW RESIDING AT RASHTRA JYOTHI, KATTIKUNNU.**

BY ADV. SRI.V.SHYAM

RESPONDENT(S):

- 1. STATE OF KERALA,
(REPRESENTED BY THE S.I.OF POLICE,
THIRUNELLY POLICE STATION -CRIME NO.94/2007) REPRESENTED
BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM -682 031.**
- 2. T.C. JOSEPH, S/O.CHACKO,
AGED 65 YEARS, THADIKKAL HOUSE, THRISLERY P.O.,
PALLIKAVALA, MANANTHAVADY TALUK,
WAYANAD DISTRICT- 670646.**
- 3. AMMINI, W/O.JOSEPH,
AGED 60 YEARS, THADIKKAL HOUSE, THRISLERY P.O.,
PALLIKAVALA, MANANTHAVADY TALUK,
WAYANAD DISTRICT - 670646.**

R1 BY SMT S.HYMA, PUBLIC PROSECUTOR

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 28-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 4748 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNEXURE A1 - CERTIFIED COPY OF THE CHARGE IN CRIME NO.94/2007 OF
THIRUNELLY POLICE STATION.**

**ANNEXURE A2 - TRUE COPY OF THE JUDGMENT DATED 7.9.2013 IN S.C.NO.202/2014
ON THE FILE OF THE ADDL. SESSIONS JUDGE-II, KALPETTA,
WAYANAD.**

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.4748 of 2015

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Dated this the 28th day of July, 2015

ORDER

The petitioner herein is the original third accused in S.C No.202 of 2008 of the Additional Sessions Judge-II, Wayanad. The other accused faced trial before the learned Additional Sessions Judge-II, Kalpetta, and obtained a judgment of acquittal on 7.9.2013. The offences involved in this case are under Sections 143, 147, 148, 452, 324, 326, 308 and read with Section 149 of the Indian Penal Code. The other six accused obtained a judgment of acquittal under Section 232 of Cr.P.C. when all the material witnesses turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. The prosecution examined fourteen witnesses in the said case, and also marked Exts.P1 to P9. None of the material witnesses examined in the case supported the prosecution. In the absence of any evidence or incriminating circumstance, the learned trial judge acquitted the accused Nos.1, 2 and 4 to 6. The case against the petitioner was split up and re-filed as S.C.No.168 of 2013 when he absconded. 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-A2 judgment in S.C.No.202 of 2008 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 S.C No.202 of 2008 of the Additional Sessions Judge-II, Wayanad will stand quashed under Section 482 of the Code of Criminal Procedure.

Sd/-
P.UBAID
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE