

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

Crl.MC.No. 3569 of 2014

SC 296/2008 OF ADDITIONAL DISTRICT COURT (ADHOC), PATHANAMTHITTA

FIR IN CRIME NO. 561/2003 OF THIRUVALLA POLICE STATION
.....

PETITIONER(S)/2ND ACCUSED:

**B.MANOJKUMAR, VADAKKEMADOM,
PERINGARA P.O., THIRUVALLA.**

**BY ADVS.SMT.K.P.SANTHI
SMT.SINDHU MURALEEDHARAN
SMT.LINTA VARGHESE
SRI.RILGIN V.GEORGE**

RESPONDENT(S)/COMPLAINANT:

**1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

*** ADDITIONAL R2 IMPEADED.**

**2. SANAL KUMAR, S/O.RAMACHANDRA KURUP,
AGED 36 YEARS, ADVOCATE,
MANGOTTU VEEDU, NADUVILE MURI,
NEDUMBRAM.**

*** ADDITIONAL R2 IMPEADED AS PER ORDER DTD.4.7.2014 IN
CRL.M.C.6302/12014.**

R1 BY PUBLIC PROSECUTOR SMT.P.MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
11-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' ANNEXURES:

ANNEXURE I: TRUE COPY OF FIR IN CRIME NO.561/2003.

ANNEXURE II: TRUE COPY OF FINAL REPORT IN CRIME NO.561/2003.

**ANNEXURE III: TRUE COPY OF THE JUDGMENT IN S.C.NO.296 OF 2008 OF THE
ADDITIONAL SESSIONS COURT (ADHOC) FAST TRACK,
PATHANAMTHITTA.**

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P. UBAID, J.

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Crl.M.C. No.3569 of 2014

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Dated this the 11th day of February, 2015

ORDER

The petitioner herein is the original accused No.2 in Crime No.561 of 2003 of Thiruvalla Police Station. The offences involved in this case are under Sections 143,147,148 and 307 read with 149 IPC. The other accused (except A7) in the crime faced trial before the trial court and obtained a judgment of acquittal under Section 232 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 7 witnesses in the said case including the first informant/injured, and also marked Exts.P1 to P15. 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 trial court acquitted the other accused. The case against the

petitioner herein was split up and refiled as C.P.No.15/08, which was subsequently transferred to the Register of Long Pending Cases as L.P.No.59/212 on 30.04.2012. The petitioner (A2) was arrested and produced on 30.06.2014, and the case was refiled as C.P.No.28/14 and it is now pending before the Judicial First Class Magistrate Court, Thiruvalla. 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 III judgment in S.C.No.296/08 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.P.No.28/2014 before the Judicial First

Class Magistrate Court, Thiruvalla 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

sj