

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

Crl.MC.No. 4789 of 2015

CC 810/2010 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, NADAPURAM

CRIME NO. 259/1995 OF NADAPURAM POLICE STATION, KOZHIKODE
.....

PETITIONER(S)/ACCUSED:

- 1. THARAPORATH ABDULLA, AGED 45 YEARS,
S/O. AMMAD, THARAPURATH HOUSE, UMMATHOOR,
PARAKKADAVU P.O., KOZHIKODE DISTRICT - 673 101.**
- 2. THYKKANDI MAHAMOODH, AGED 45 YEARS,
S/O. ABDULLA, THAIKKANDY HOUSE, UMMATHOOR,
PARAKKADAVU P.O., KOZHIKODE DISTRICT - 673 101.**

BY ADV. SRI.M.G.SREEJITH

RESPONDENT(S)/STATE/DEFACTO COMPLAINANT:

- 1. STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
NADAPURAM POLICE STATION THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA - 682 031.**
- 2. MANOJAN, AGED 42 YEARS,
S/O. KANNAN, MADATHIL HOUSE, UMMATHOOR,
PARAKKADAVU P.O., KOZHIKODE DISTRICT - 673 101.**

R2 BY ADV. SRI.ABDUL JALEEL ONATH

R1 BY PUBLIC PROSECUTOR SRI.DHANESH MATHEW MANJOORAN

**THIS CRIMINAL MISC. CASE HAVING COME FOR ADMISSION ON
30-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

Crl.MC.No. 4789 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEXURE A1- CERTIFIED COPY OF CHARGE SHEET IN CRIME NO. 259/1995 NOW
C.C.NO. 801/2010 IN THE FILE OF JUDICIAL FIRST CLASS
MAGISTRATE COURT, NADAPURAM.**

ANNEXURE A2- AFFIDAVIT FILED BY 2ND RESPONDENT DATED 15-06-2015.

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

ALEXANDER THOMAS, J.

Crl.M.C.No.4789 Of 2015

Dated this the 30th day of July, 2015.

ORDER

The petitioners herein are the original accused Nos.5 & 6 in Anx-A1 final report/charge sheet in Crime No.259/1995 of Nadapuram Police Station registered for offences punishable under Secs.143, 147, 148, 448, 341, 324 r/w 149 of the IPC. The prosecution allegation is that the accused persons in furtherance of their common object, armed with deadly weapons committed trespass into a shop and attacked the defacto complainant and thereby committed the alleged offences. There were altogether 6 accused in the crime. As the petitioners (A5 & A6) failed to appear before the court below, the case against them was split up. Since the 4th accused had been absconding the case against him was refiled as L.P.No.65/2001. The remaining accused (A1 to A3) faced trial in C.C.No.105/1996 on the file of the Judicial First Class Magistrate Court, Nadapuram, in which the said court had acquitted the accused Nos.1 to 3. Later, the 4th accused entered appearance in L.P.No.65/2001 and the case was re-numbered as

Crl.M.C.No.4789 Of 2015

C.C.No.638/2005 which resulted in acquittal of the said accused vide judgment dated 22.1.2007. The case against the petitioners (A5 & A6) is now pending as C.C.No.801/2010 on the file of the Judicial First Class Magistrate Court, Nadapuram. 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 judgments in C.C.Nos.105/1996 & 638/2005. Moreover, the 2nd respondent (defacto complainant) has sworn to Anx-A2 affidavit stating that the matter has been settled and that he has no objection in quashing the impugned criminal proceedings pending against the petitioners. 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 had turned hostile to the prosecution and the available evidence is not sufficient to come to the conclusion as to the guilt of the accused. From the aforestated facts, it can be seen that the substratum of prosecution case has been shattered by the acquittal of the co-accused. Moreover, the matter

CrI.M.C.No.4789 Of 2015

has been settled between the parties. No meaningful purpose will be subserved by prolonging the agony of the impugned criminal proceedings now pending against the petitioners. 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-A1 Final Report/Charge Sheet filed in Crime No.259/1995 of Nadapuram Police Station, which is now pending as C.C.No.801/2010 on the file of the Judicial First Class Magistrate Court, Nadapuram, and all further proceedings arising therefrom pending against the petitioners herein stand quashed.

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

ALEXANDER THOMAS,
Judge.

bkn/-