

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

CrI.MC.No. 4793 of 2015 ()

**SC. NO.855/2012 OF ADDITIONAL SESSIONS COURT - I, KASARAGOD.
CRIME NO. 137/2010 OF BEKAL POLICE STATION.**

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PETITIONER/ACCUSED:

**MOHAMMED SHA, AGED 29 YEARS,
S/O. ABDUL REHMAN, KOOVATHOTTY HOUSE,
KALANAD P.O., KASARAGOD DISTRICT.**

**BY ADVS.SRI.SALIM V.S.,
SRI.SHANAVAS.S,
SRI.H.NUJUMUDEEN.**

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
THROUGH THE STATION HOUSE OFFICER,
BEKAL POLICE STATION,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

BY PUBLIC PROSECUTOR SRI.DHANESH MATHEW MANJOORAN.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 30-07-2015, ALONG WITH CRL. MC. NO.4828 OF 2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

- ANNEXURE A1 COPY OF THE FIR IN CRIME NO.137/2010.**
- ANNEXURE A2 COPY OF THE FINAL REPORT IN CRIME NO.137/2010.**
- ANNEXURE A3 COPY OF THE JUDGMENT IN SC.465/2011 ON THE FILE
OF THE COURT OF ADDL. SESSIONS COURT-I, KASARAGOD.**

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

ALEXANDER THOMAS, J.

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Crl.M.C.Nos.4793 & 4828 of 2015

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Dated this the 30th day of July, 2015

O R D E R

The petitioner in Crl.M.C.No.4793/2015 is accused No.3 in Anx.A-2 final report/charge sheet filed in Anx.A-1 Crime No.137/2010 of Bekal Police Station, registered for offences punishable under Secs.143, 147, 148, 341, 427, 332 and 308 read with Sec.149 of the I.P.C. The petitioner in Crl.M.C.No.4828/2015 is the 23rd accused in the very same crime, viz., Crime No.137/2010 of Bekal Police Station, which has led to the institution of S.C.No. 465/2011 on the file of the Addl. Sessions Court-I, Kasargod. There were altogether 23 accused in the above referred crime, in which 17 accused (Accused Nos.1, 2, 4, 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 20, 21 & 22 as per Anx.A-2 final report) faced trial. The petitioners herein (A-3 and A-23) did not face trial. The case against the petitioner (A-3) in Crl.M.C.No. 4793/ 2015 has subsequently been split up and re-filed as S.C.No.855/ 2012 on the file of the Principal Addl. Sessions Court-I, Kasargod and the case against the petitioner

(A-23) in Crl.M.C.No. 4828/2015 has subsequently been split up and re-filed as S.C.No.121/2015 on the file of the Addl. Sessions Court-I, Kasargod. After meticulous appraisal of the evidence on record, the trial court concluded in Anx.A-3 judgment that there is no evidence to connect co-accused persons (Accused Nos.1, 2, 4, 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 20, 21 & 22 as per Anx.A-2 final report) with the impugned criminal charges and had accordingly acquitted them. The petitioners have filed the instant Crl.M.Cs. with the prayer for quashment of the impugned criminal proceedings pending against them on the ground that the substratum of the prosecution case has been shattered by the acquittal of the said co-accused persons ((Accused Nos.1, 2, 4, 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 20, 21 & 22 as per Anx.A-2 final report) as per Anx.A-3 judgment.

2. Heard the learned counsel for the petitioners and the learned Public Prosecutor appearing for the respondent State of Kerala.

3. On a perusal of Anx.A-3 judgment it can be seen that the trial court has conclusively held that there is no evidence to connect the said co-accused persons (Accused Nos.1, 2, 4, 6, 7, 8,

9, 10, 11, 12, 13, 16, 17, 18, 20, 21 & 22 as per Anx.A-2 final report) with the impugned charges and acquitted them. From a mere reading of Anx.A-3 judgment it is crystal clear that the substratum of the prosecution case has been shattered by the acquittal of the said co-accused persons. No meaningful purpose will be subserved by prolonging the agony of the impugned criminal proceedings now pending against the petitioners herein. In this view of the matter, it is ordered in the interest of justice as follows:

- (i) In Crl.M.C.No.4793/2015 the impugned Anx.A1 FIR in Crime No.137/2010 of Bekal Police Station, which has led to to the institution of S.C.No. 855/2012 on the file of the Addl. Sessions Court-I, Kasargod, and all further proceedings arising therefrom pending against the petitioner therein stand quashed.
- (ii) In Crl.M.C.No.4828/2015 the impugned Anx.A1 FIR in Crime No.137/2010 of Bekal Police Station, which has led to to the institution of S.C.No. 121/2015 on the file of the Addl. Sessions Court-I, Kasargod, and all further proceedings arising therefrom pending against the petitioner therein stand quashed.

With these observations and directions these Criminal Miscellaneous Cases stand finally disposed of.

sd/+
ALEXANDER THOMAS, JUDGE
///True copy///

P.S. to Judge