

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 31ST DAY OF JULY 2015/9TH SRAVANA, 1937

Cr1.MC.No. 4873 of 2015

IN SC 1065/2013 of I ADDL.SESIONS JUDGE, THRISSUR

CRIME NO. 9/2007 OF GURUVAYOOR POLICE STATION, TRISSUR

PETITIONER/ACCUSED:

VINODKUMAR @ VINU VISWAMBARAN, AGED 37 YEARS,
S/O. VISWAMBARAN, MANANKULANGARA VETTEL,
THEKKUMUNA COLONY, BRAHMAKULAM DESAM,
THAIKKAD VILLAGE,
CHAVAKKAD TALUK, THRISSUR DISTRICT.

BY ADV. SRI.RAJIT

RESPONDENTS/STATE AND DEFACTO COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. PRABIN, AGED 35 YEARS,
S/O. UNNIKRISHNAN, KANNANTHARA HOUSE, THEKKUMUNA COLONY,
BRAHMAKULAM DESAM, THAIKKAD VILLAGE, CHAVAKKAD TALUK,
THRISSUR DISTRICT-680104.
3. DEVAYANI,
W/O. UNNIKRISHNAN, KANNANTHARA HOUSE,
THEKKUMUNA COLONY,
BRAHMAKULAM DESAM, THAIKKAD VILLAGE, CHAVAKKAD TALUK
THRISSUR DISTRICT-680104.

R2 & 3 BY ADV. SRI.V.V.JOY
R1 BY PUBLIC PROSECUTOR SMT.V.H.JASMINE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 31-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 4873 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE : COPY OF THE FINAL REPORT FILED BY THE GURUVAYUR POLICE
IN CRIME NO.9/2007 OF GURUVAYUR POLICE STATION.

ANNEXURE B: COPY OF THE JUDGMENT DATED 19.11.2013 IN
S.C.NO.62/2008 OF THE LEARNED IST ADDL. ASST. SESSION'S JUDGE,
THRISSUR.

ANNEXURE C: COPY OF THE AFFIDAVIT EVIDENCING THE ABOVE FACT SWORN
TO BY THE 2ND RESPONDENT.

ANNEXURE D: COPY OF THE AFFIDAVIT EVIDENCING THE ABOVE FACT SWORN
TO BY THE 3RD RESPONDENT.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

ab

P.UBAID, J.

Crl.M.C No.4873 of 2015

Dated this the 31st day of July, 2015

O R D E R

The petitioner herein is the original 6th accused in S.C No.62/2008 of the 1st Additional Assistant Sessions Judge, Thrissur. The offences involved in the case are under Sections 143, 147, 148, 447, 323, 354, 324 and 308 r/w 149 of the Indian Penal Code. The other five accused faced trial before the trial court and obtained a judgment of acquittal when all the material witnesses including the first informant turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. The prosecution examined three witnesses in the said case including the first informant and also marked Ext.P1. 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 learned Magistrate acquitted the accused Nos.1 to 5. The case against the petitioner herein was split up and refiled and it is now pending as S.C No.1065/2013 before

trial court. 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 B judgment in S.C No.62/2008 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.1065/2013 before the 1st Additional Assistant Session's Judge, Thrissur 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**

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