

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

CrI.MC.No. 4901 of 2015 ()

AGAINST SC 1025/2014 of SPECIAL COURT FOR THE TRIAL OF OFFENCES
AGAINST WOMEN AND CHILDREN, KOZHIKODE
CRIME NO. 171/2011 OF CHEVAYUR POLICE STATION , KOZHIKODE

PETITIONER(S):

K.LATHEEF
S/O ASSAINAR, KORANKANDI HOUSE, KONOTTU P.O.
KURUVATTOOR AMSOM, KOZHIKODE DISTRICT.

BY ADV. SRI.SUNNY MATHEW

RESPONDENT(S)/RESPONDENTS/STATE:

1. VILASINI T.P
W/O GOPALAN, THUMBATTA HOUSE, KONOTTU P.O.
KURUVATTOOR AMSOM, KOZHIKODE DISTRICT-673001.
2. NIMISHA T.
D/O GOPALAN, THUMBATTA HOUSE, KONOTTU P.O.
KURUVATTOOR AMSOM, KOZHIKODE DISTRICT-673001.
3. THE SUB INSPECTOR OF POLICE,
CHEVAYOOR POLICE STATION, KOZHIKODE DISTRICT-673001.
4. THE ASSISTANT COMMISSIONER OF POLICE
NORTH, KOZHIKODE CITY-673001.
5. STATE OF KERALA
RESPONDENTS 3 TO 5 REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.

R1-2 BY ADV. SRI.C.C.ANOOP
R3-R5 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:

Crl.MC.No. 4901 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A1: TRUE COPY OF THE FINAL REPORT & F.I.R. IN CRIME
NO.171/2011 OF CHEVAYOOR POLICE STATION.

ANNEXURE A2: TRUE COPY OF THE JUDGMENT DATED 28.1.2015 PASSED BY THE
SPECIAL JUDGE FOR THE TRIAL OF OFFENCES AGAINST CHILDREN AND WOMEN
IN S.C.443/2012.

ANNEXURE A3: TRUE COPY OF THE AFFIDAVIT SWORN TO BY THE 1ST
RESPONDENT.

ANNEXURE A4: TRUE COPY OF THE AFFIDAVIT SWORN TO BY THE 2ND
RESPONDENT.

ANNEXURE A5: TRUE COPY OF THE AGREEMENT BETWEEN THE PETITIONER AND
RESPONDENTS 1 AND 2.

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**Crl.M.C No.4901 of 2015**  
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Dated this the 31st July, 2015

ORDER

The petitioner herein is the original 2nd accused in S.C No. 443 of 2012 of the Special Court for the Trial of Offences against members of Scheduled Caste and Schedule Tribe, Kozhikode. The offences involved in the case are under Sections 452, 353, 324 and 427 read with 34 of Indian Penal Code and under Section Section 3 (1) (xi) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act. The three other accused faced trial before the trial court and obtained a judgment of acquittal on 28.1.2015 under Section 232 of the Code of Criminal Procedure, when the material witnesses turned hostile to the prosecution in view of an amicable settlement. The case against the petitioner was split up and refiled as S.C. 1025 of 2014. 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 the prosecution

against him will not serve any purpose. Annexure-A2 judgment in S.C No.443 of 2012 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 herein in S.C.No.1025 of 2014 of the Special Court for the Trial of Offences against Women and Children, Kozhikode 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.

**Sd/-
P.UBAID
JUDGE**

ma

/True copy/

P.S to Judge