

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 6TH DAY OF AUGUST 2015/15TH SRAVANA, 1937

Crl.MC.No. 5078 of 2015

CRIME NO. 248/2005 OF KONDOTTY POLICE STATION , MALAPPURAM

PETITIONER/ACCUSED -1 :-

**VELLAMARTHODI MOHAMMED SHEREEF,
AGED 40 YEARS, S/O MUHAMMAD KUTTY,
EDAYAPARAMB HOUSE, CHAMAPARAMB,
CHEREKUVU AMSOM, MALAPPURAM DISTRICT.**

**BY ADVS.SRI.P.K.VARGHESE
SMT.NIMA JACOB**

RESPONDENT/STATE :-

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682031.**

R BY SMT.S.HYMA, PUBLIC PROSECUTOR

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 06-08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

rkj

Crl.MC.No. 5078 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNEXURE I: TRUE COPY OF THE CHARGE SHEET IN CRIME NO.248/2005 OF
KONDOTTY POLICE STATION.**

**ANNEXURE II: TRUE COPY OF THE JUDGMENT DATED 30.09.2009
IN CC 27/2007 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-II,
(FOREST OFFICENCES)MANJERI.**

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

rkj

P.UBAID, J.

=====

Crl.M.C.No.5078 of 2015

=====

Dated this the 6th day of August, 2015

ORDER

The petitioner herein is the original first accused in C.C.No.27 of 2007 of the Judicial First Class Magistrate Court-II, (Forest Offences) Manjeri. The offence involved in the prosecution is under Section 498A IPC. The accused Nos. 2 to 4 faced trial before the learned Magistrate, and obtain a judgment of acquittal, when the material witnesses turned hostile during trial, in view of an amicable settlement out of Court. The case against the petitioner herein was split up and re-filed as C.C.No.395/2009, and now it stands transferred to the register of long pending case as LP No.43/2010. 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-2 judgment in C.C.No.27 of 2007 shows that 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.C.No.395/2009 of the Judicial First Class Magistrate Court-II, (Forest Offences) Manjeri, which stands transferred to the register of long pending case as LP No.43/2010 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

rkj

//TRUE COPY//

P.A. TO JUDGE