

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 13TH DAY OF AUGUST 2015/22ND SRAVANA, 1937

Crl.MC.No. 5299 of 2015 ()

CC 204/2010 of JUDICIAL FIRST CLASS MAGISTRATE COURT, THIRUVALLA

PETITIONER/IST ACCUSED :

**VIJAYAKUMAR, S/O. KUNJUKUNJU,
TANNIMURIYIL HOUSE, NEDUMPARA COLONY,
KALLOOPARA, THIRUVALLA.**

BY ADV. SRI.SAJITH KUMAR V.

RESPONDENTS/STATE AND DEFACTO COMPLAINANT :

1. STATE OF KERALA

**REPRESENTED BY THE SUB INSPECTOR OF POLICE,
KEEZHVAYPOOR, THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682031**

2. MR. JOSHY JOSE,

**S/O. JOSE, RESIDING AT ANCHAMKUZHIYIL
PRATHIBHA JUNCTION, CHACKOBHAGOM MURI, KALLOOPRA
MALLAPPALLY TALUK, PATHANAMTHITTA DISTRICT.**

**R1 BY PUBLIC PROSECUTOR SRI. DHANESH MATHEW MANJOORAN
R2 BY ADV. SRI.P.K.ANTONY**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 13-08-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

bp

Crl.MC.No. 5299 of 2015 ()

APPENDIX

PETITIONER'S ANNEXURES :

**ANNEXURE A: COPY OF THE CHARGE SHEET IN CRIME NO. 608/09 BEFORE
KEEZHVAYPOOR, THIRUVALLA.**

**ANNEXURE B: COPY OF THE JUDGMENT IN CC NO. 204/10 OF THE JUDICIAL
MAGISTRATE COURT, THIRUVALLA.**

**ANNEXURE C: AFFIDAVIT IN REVENUE STAMP PAPER BY THE R2 ATTESTED BY
NOTARY.**

ANNEXURE D: COPY F THE AFFIDAVIT DT 11/8/2015 OF THE R2.

RESPONDENT'S ANNEXURES : NIL.

//TRUE COPY//

P.S. TO JUDGE

bp

ALEXANDER THOMAS, J.

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Crl.M.C.No. 5299 of 2015

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Dated this the 13th day of August, 2015

ORDER

The petitioner herein is the 1st accused in the impugned Anx.A final report/charge sheet filed in Crime No.608/2009 of Keezhvaypoor Police Station, registered for offences punishable under Secs.143, 147, 148, 149, 506(ii), 323 and 324 of the I.P.C., at the instance of the 2nd respondent defacto complainant. Original accused Nos.2 and 3 faced trial. The case against the petitioner herein has subsequently been re-numbered as C.C.No.109/2015 on the file of the Judicial First Class Magistrate's Court, Thiruvalla. After meticulous appraisal of the evidence on record, the trial court concluded in Anx.B judgment that there is no evidence to connect accused Nos.2 and 3 with the impugned criminal charges and had accordingly acquitted them. The petitioner has filed the instant Crl.M.C. with the prayer for quashment of the impugned criminal proceedings pending against him 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 and 2) as per Anx.B judgment.

2. Heard Sri.V.Sajith Kumar, learned counsel for the petitioner, Sri.P.K.Antony, learned counsel appearing for the 2nd respondent and the learned Public Prosecutor appearing for the 1st respondent State of Kerala.

3. On a perusal of Anx.B judgment it can be seen that the trial court has conclusively held that there is no evidence to connect the said co-accused (Accused Nos.2 and 3) with the impugned charges and acquitted them. From a mere reading of Anx.B 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 petitioner herein. Moreover it is seen that the petitioner and the contesting respondent No.2 have settled their disputes (arising out of the impugned crime) as borne out by Anx.D affidavit sworn to by the 2nd respondent defacto complainant, in which he has stated that he has no objection for quashment of the impugned criminal proceedings against the petitioner herein. In this view of

the matter, it is ordered in the interest of justice that the impugned
Anx.A final report/charge sheet filed in Crime No.608/2009 of
Keezhvaypoor Police Station, which has led to the institution of
C.C.No.109/2015 on the file of the Judicial First Class Magistrate's
Court, Thiruvalla, and all further proceedings arising therefrom
pending against the petitioner herein stand quashed.

With these observations and directions, the Criminal
Miscellaneous Case stands finally disposed of.

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Sd/-
ALEXANDER THOMAS, JUDGE

///True copy///

P.S. to Judge