

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 20TH DAY OF AUGUST 2015/29TH SRAVANA, 1937

Crl.MC.No. 5656 of 2015

**LP.NO.28/2013 IN CP.NO.62/2011 OF JUDICIAL FIRST CLASS MAGISTRATE COURT - I,
TIRUR
CRIME NO. 360/2010 OF KALPAKANCHERY POLICE STATION, MALAPPURAM**
.....

PETITIONER(S)/ACCUSED NO.8:

**RAFEEQUE,
S/O SAYED , KARAKKADAN HOUSE, KADAMPUZHA P.O.,
MALAPPURAM DISTRICT.**

BY ADV. SRI.BABU S. NAIR

RESPONDENT(S)/STATE & COMPLAINANT:

- 1. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682 031.**
- 2. THE SUB INSPECTOR OF POLICE,
KALPAKANCHERY POLICE STATION,
MALAPPURAM DISTRICT, PIN-676 551.**

BY PUBLIC PROSECUTOR SRI.RAJESH VIJAYAN

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
20-08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

Crl.MC.No. 5656 of 2015

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE A: TRUE COPY OF THE COMMUNICATION ISSUED BY THE HOME
SECRETARY TO THE DISTRICT COLLECTOR DTD. 1/12/2012.**

**ANNEXURE B: TRUE COPY OF THE ORDER IN CRL.MP NO. 309/13 IN
SC NO. 455/11 DTD. 26/2/2013.**

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msv/

ALEXANDER THOMAS, J.

Crl.M.C.No.5656 Of 2015

Dated this the 20th day of August, 2015.

ORDER

The petitioner herein is the original 8th accused in Crime No.360/2010 of Kalpakanchery Police Station, registered for offences punishable under Secs.143, 147, 148, 448, 341, 323 & 308 r/w 149 IPC against 15 accused persons. The case was taken on file as C.P.No.54(A)/2011 on the file of the Judicial First Class Magistrate Court-I, Tirur. Since the petitioner (A8) and A9 and A10 were working abroad, the case against other accused person have been committed to the Sessions Court and numbered as S.C.No.455/2011 before the Additional Sessions Court (Ad Hoc-I), Manjeri. The case against the petitioner has been renumbered as C.P.No.62/2011 and subsequently removed to long pending cases as L.P.No.28/2013 on the file of the Judicial First Class Magistrate Court-I, Tirur.

2. Out of the 15 accused, 12 accused participated in the trial and later Government issued Anx-A formal orders for

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granting permission to withdraw the prosecution in the criminal proceedings and thereupon as per Anx-B order dated 26.2.2013 in Crl.M.P.No.309/2013 in S.C.No.455/2011 on the file of the Additional Sessions Court (Ad Hoc-I), Manjeri, had discharged the said 12 accused persons. Subsequently, two other accused approached this Court in Crl.M.C.No.2445/2014 and this Court as per order dated 7.8.2015 had quashed the impugned criminal proceedings in respect of those accused in view of the discharge of similarly situated co-accused persons as stated above. It is thus contended that since all other accused persons were acquitted, the continuation of criminal proceedings as against the petitioner would constitute an abuse of the process of the court especially when the State itself is not interested in prosecuting the case. It is in the light of these aspects that the prayer for quashment of the impugned criminal proceedings has been made in the instant Crl.M.C.

4. Since the court below has allowed the petition filed by the prosecutor to withdraw the case as evident from Anx-B order, it can be seen that the substratum of prosecution case has been

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shattered by the acquittal of the co-accused. No meaningful purpose will be subserved by prolonging the agony of the impugned criminal proceedings now pending against the petitioner. Any further continuance of the impugned criminal proceedings would amount to mere wastage of precious resources of the State including that of the judiciary.

5. In this view of the matter, it is ordered in the interest of justice that the impugned criminal proceedings in L.P.No.28/2013 in C.P.No.62/2011 on the file of the Judicial First Class Magistrate Court-I, Tirur, arising out of Crime No.360/2010 of Kalpakancherry Police Station, pending against the petitioner herein and all further proceedings arising therefrom pending against the petitioner herein stand quashed.

With these observations and directions, this Crl.M.C stands disposed of.

ALEXANDER THOMAS,
Judge.

bkn/-