

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

Cr1.MC.No.5751 of 2015 ()

CP 111/2011 of J.M.F.C.-II, HOSDRUG

SC 935/2012 of ADDL.SESIONS COURT - II, KASARAGOD

CRIME NO.797/2010 OF BEKAL POLICE STATION , KASARGOD
NOW PENDING AS S.C.NO.113/2014 of ADDL.SESIONS COURT-II, KASARAGOD

PETITIONER(S)/ACCUSED (ORIGINALLY ACCUSED NO.4):

FAIZAL @ ABDULLA KUNHI, AGED 30 YEARS
S/O.IBRAHIM, MUTHANADUKKAM, PERIYA VILLAGE
KASARAGOD DISTRICT.

BY ADV. SRI.K.P.HARISH

RESPONDENT(S)/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM

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:

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APPENDIX

PETITIONER(S) ' EXHIBITS:

ANNEXURE A1 : THE TRUE COPY OF THE FIR IN CRIME NO.797 OF 2010 OF
BEKAL POLICE STATION

ANNEXURE A2 : A TRUE COPY OF THE FINAL REPORT DATED 30-4-2011 IN
CRIME NO.797/2010 AS NUMBERED AS CP NO.111 OF 2011 OF THE JUDICIAL
FIRST CLASS MAGISTRATE COURT-II, HOSDURG.

ANNEXURE A3 : THE TRUE COPY OF THE JUDGMENT DATED 11-2-2014 IN SC
935/2012 OF THE ADDITIONAL SESSIONS JUDGE-II, KASARAGOD.

ANNEXURE A4 : THE TRUE COPY OF THE DOCKET SHEET IN SC NO.113 OF 2014

RESPONDENT(S) ' EXHIBITS:

// TRUE COPY //

P.A TO JUDGE.

ALEXANDER THOMAS, J.

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Dated this the 20th day of August, 2015.

ORDER

The petitioner herein is the original accused No.4 in the impugned Anx-A2 final report/charge sheet filed in Crime No.797/2010 of Bekal Police Station, registered for offences punishable under Secs.143, 147, 148, 341, 324, 308 & 427 r/w 149 of the IPC. The prosecution allegation is that the accused persons formed themselves into unlawful assembly and committed rioting armed with deadly weapons and wrongfully restrained PWs 2 & 3 and caused simple hurt to them and also damaged the motor cycle owned by PW2. There were altogether 13 accused in the crime out of which 8 accused (A1, A6 to A9 & A11 to A13) faced trial in S.C.No.935/2012 on the file of the Additional Sessions Court-II, Kasaragod, in which the said court as per Anx-A3 judgment dated 11.2.2014 had acquitted the said accused. The case against the petitioner is now pending as S.C.No.113/2014 on

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the file of the Additional District & Sessions Court-II, Kasaragod. The case against the remaining accused is pending before the committal court. It is the specific case of the petitioner that the substratum of the prosecution case has been shattered by the acquittal of the co-accused as per Anx-A3 judgment. It is in the light of these aspects that the prayer for quashment of the impugned criminal proceedings has been made by the petitioner in the instant Crl.M.C.

2. On a close scrutiny of the evidence on record, the court below held that all the witnesses including the injures person turned hostile to the prosecution and they have no case that it was the accused persons who committed the crime and in view of the evidence tendered by the said witnesses, remaining witnesses were rightly given up by the Prosecutor since their evidence will not improve the prosecution case further and that the prosecution has not succeeded in proving its case beyond reasonable doubt and accordingly acquitted the accused therein. From a reading of Anx-A3 judgment it can be seen that the substratum of prosecution case

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has been 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.

3. In this view of the matter, it is ordered in the interest of justice that the impugned Anx-A2 final report/charge sheet filed in Crime No.797/2010 of Bekal Police Station, which is now pending as S.C.No.113/2014 on the file of the Additional District & Sessions Court-II, Kasaragod, and all further proceedings arising therefrom pending against the petitioner herein stand quashed under Sec.482 of the Code of Criminal Procedure.

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

ALEXANDER THOMAS,
Judge.

bkn/-