

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

Crl.MC.No. 4589 of 2014 ()

IN LPC 8/2005 of SUB COURT, PAYYANNUR

PETITIONER(S):

**JABBAR
S/O.ISMAIL HAJEE, 20/99 KUNHIMANGALAM
KANNUR DISTRICT.**

BY ADV. SRI.I.V.PRAMOD

RESPONDENT(S):

**1. THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM 682 031.**

Addl. 2 impleaded.

**Addl.2. MANIYAN WILLIAMS, S/O VINCENT, AGED 30 YEARS
KOVVAPRAM, KUNJHIMANGALAM, KANNUR DISTRICT**

**is impleaded as additional 2nd respondent as per order dated 8.12.2014 in Crl.M.A
No.11171 of 2014 in Crl.M.C No.4589 of 2014**

R1 BY PUBLIC PROSECUTOR SMT. P. MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 11-03-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 4589 of 2014 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A1. COPY OF THE CHARGE IN CRIME NO.81/99.

ANNEXURE A2. COPY OF THE JUDGMENT IN SC 124/08 DATED 09.09.10.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 4589 of 2014

Dated this the 11th day of March, 2015.

O R D E R

The petitioner herein is the original second accused in S.C No.124 of 2008 of the Assistant Sessions Court, Payyannur (Crime No.81 of 1999 of Payyannur Police Station) registered under Sections 143, 147, 148, 341, 323, 324, 307, 153 (A) r/w 149 of IPC. Of the 12 accused in the crime three accused faced trial in S.C No.124 of 2008 before the learned Assistant Sessions Judge, Payyannur, and obtained a judgment of acquittal when all the material witnesses including the de facto complainant (injured) turned hostile to the prosecution. The case against the petitioner herein and some others was split up and refiled. The case against the petitioner herein was later transferred to the register of long pending cases as L.P No.8 of 2005. Now it is submitted that the petitioner has surrendered before the trial court and obtained regular bail. The present case number is not seen furnished. The petitioner now seeks orders quashing the prosecution 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 S.C No. 124 of 2008 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 as accused No.2 in S.C No.124 of 2008 (Crime No.81 of 1999 of Payyannur Police Station) 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.

P.UBAID,
JUDGE