

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

Crl.MC.No. 4845 of 2013 ()

AGAINST THE JUDGMENT IN SC 336/2013 of ADDITIONAL SESSIONS COURT
(ADHOC)III, KOLLAM DATED 21-03-2013
CRIME NO. 992/2007 OF KOLLAM EAST POLICE STATION , KOLLAM

PETITIONER(S)/ACCUSED:

SHERIN AGED 21 YEARS
S/O.JAMES, THUNDIL HOUSE, MUKHATHALA CHERRY
THRIKKOVILVATTOM VILLAGE, FROM JAMES VILLA
COLLEGE NAGAR 100, UDAYAMARTHANDAPURAM CHERRY
MUNDAKKAL VILLAGE, KOLLAM DISTRICT.

BY ADVS.SRI.PRATHEESH.P
SMT.CHITHRA.S.BABU

RESPONDENT(S)/RESPONDENTS/STATE:

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1. STATE OF KERALA
THROUGH THE SUB INSPECTOR OF POLICE
KOLLAM EASTPOLICE STATION
KOLLAM DISTRICT REPRESENTED PUBLICPROSECUTOR
HIGH COURT OF KERALA AT ERNAKULAM.
 2. YESUDAS LUCKOSE @ JOY,
AGED 31 YEARS, S/O.LUCKOSE,
THAYYIL VADAKKATHIL, THILLERY MISSION COMPOUND,
UDAYAMARTHANDAPURAM CHERRI, MUNDAKKAL VILLAGE,
KOLLAM DISTRICT.

R1 BY PUBLIC PROSECUTOR SRI.REJI JOSEPH
R2 BY ADV. SRI.K.B.ARUNKUMAR IS IMPEADED AS
PER ORDER ON CRL.M.A NO.182 OF 2015 DATED 15.01.2015

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
15-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 4845 of 2013 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE-1: THE ATTESTED COPY OF FIR WITH FIS IN CRIME NO.992/2007 OF KOLLAM EAST POLICE STATION.

ANNEXURE-2: THE COPY OF FINAL REPORT IN CRIME NO.992/2007 OF KOLLAM EAST POLICE STATION.

ANNEXURE-3: THE COPY OF DEPOSITION OF PW1, THE INJURED IN S.C.NO.398/2009

ANNEXURE-4: THE COPY OF DEPOSITION OF PW2

ANNEXURE-5: THE COPY OF DEPOSITION OF PW3

ANNEXURE-6: THE COPY OF COMMON JUDGMENT IN S.C NO.398/2009 AND S.C.NO.1295/2009 ON THE FILE OF ADDL.DISTRICT & SESSIONS COURT (ADHOC-III), KOLLAM DATED 21.3.2013

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**Crl.M.C No.4845 of 2013**  
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Dated this the 15th January, 2015

ORDER

The petitioner herein is the original 1st accused in Crime No.992 of 2007 of Kollam East Police Station. The offences involved in this case are under Sections 341, 323, 324, 326 and 308 of Indian Penal Code. The original accused Nos. 2 to 4 faced trial before the trial court and obtained a judgment of acquittal under Section 232 of the Code of Criminal Procedure when all the material witnesses including the first informant turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. The prosecution examined three witnesses in the said case, but none of the material witnesses examined in the case supported the prosecution. In such a circumstance, examination of the others was dispensed with and evidenced was closed by the trial court. In the absence of any evidence or incriminating circumstance, the learned trial judge acquitted the accused Nos 2 to 4. The case against the petitioner herein was split

up and refiled as S.C No.336 of 2013 and it is now pending before the Additional District and Sessions Court (Adhoc-III), Kollam. 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 prosecution against him will not serve any purpose. Annexure -6 judgment in S.C. Nos.398/2009 and 1295/2009 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 in S.C No.336 of 2013 of the Additional District and Sessions Court (Adhoc-III), Kollam 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**

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/True copy/

P.S to Judge