

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 1ST DAY OF SEPTEMBER 2015/10TH BHADRA, 1937

Crl.M.C.No. 5906 of 2015

C.C.NO.296/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, NADAPURAM

CRIME NO. 403/2012 OF KUTTIADI POLICE STATION , KOZHIKODE

PETITIONER/ACCUSED NO.5 :-

**NABEEL, S/O.ABDULLA, AGED 24 YEARS,
PUTHALATH HOUSE,
CHERAPURAM, VELOM,
VATAKARA TALUK.**

BY ADV. SRI.ZUBAIR PULIKOOL

RESPONDENT/COMPLAINANT :-

**STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN – 682 031.**

R BY SMT. SHEEBA M.T., PUBLIC PROSECUTOR

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 01-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

rkj

Crl.M.C.No. 5906 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNEXURE I : TRUE COPY OF THE CHARGE SHEET IN CRIME NO.403/12 OF
KUTTIADI POLICE STATION.**

**ANNEXURE II : CERTIFIED COPY OF THE JUDGMENT IN C.C.NO.799/2013 ON
THE FILE OF JFCM COURT, NADAPURAM.**

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

rkj

P.UBAID, J.

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Crl.M.C.No.5906 of 2015

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Dated this the 1st day of September, 2015

ORDER

The petitioner herein is the original accused No.5 in C.C.No.799 of 2013 of the Judicial First Class Magistrate Court, Nadapuram. The other accused faced trial before the trial court, and obtained a judgment of acquittal on 31.03.2015. The offences involved in this case are under Sections 143, 147, 1148, 323, 324, 427 and 448 read with Section 149 of the Indian Penal Code. The other accused obtained a judgment of acquittal under Section 248(1) Cr.P.C. when all the material witnesses turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. The prosecution examined five witnesses in the said case, and also marked Ext.P1. None of the material witnesses examined in the case supported the prosecution. In such a circumstance, examination of the others was dispensed with,

and evidence was closed by the trial court. In the absence of any evidence or incriminating circumstance, the learned trial court acquitted the accused Nos.1 to 4. The case against the petitioner was split up and re-filed as C.C.No.296 of 2015. 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-II judgment in C.C.No.799 of 2013 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 C.C.No.296 of 2015 of the Judicial First Class Magistrate Court, Nadapuram 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

rkj

//TRUE COPY//

P.A. TO JUDGE