

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

Crl.MC.No. 5943 of 2015 ()

CC. NO.476/2011 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, TALIPARAMBA.

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PETITIONERS/ACCUSED 1 TO 3:

- 1. K.V. NOUSHAD, S/O MEMMY,
AGED 30 YEARS, KOZHAKKEDATH VALIYAPURAYIL,
SREEKANDAPURAM AMSOM, BADERIYA NAGAR,
SREEKANDAPURAM, KANNUR.**
- 2. A.P. RAHNAS, S/O KHADER, AGED 29 YEARS,
PAZHAYA AYYAKATH SREEKANDAPURAM AMSOM,
BADERIYA NAGAR, SREEKANDAPURAM, KANNUR.**
- 3. U.P. RAMSHAD, S/O IBRAHIM,
AGED 31 YEARS, UPPALAKANDY, PAZHAYANGADI,
SREEKANDAPURAM AMSOM, TALIPARAMBA, KANNUR.**

**BY ADVS.SRI.SUNIL NAIR PALAKKAT,
SRI.K.N.ABHILASH.**

RESPONDENTS/RESPONDENT AND STATE/DEFACTO COMPLAINANT:

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**
- 2. THE STATION HOUSE OFFICER,
SREEKANDAPURAM POLICE STATION,
KANNUR, PIN:670 141.**
- 3. AJMAL, AGED 35 YEARS,
S/O IBRAHIM, VAYALAKATH HOUSE,
SREEKANDAPURAM, TALIPARAMBA,
KANNUR, PIN:670 141.**

R1 & R2 BY PUBLIC PROSECUTOR SMT.P. MAYA.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 30-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

- ANNEXURE A1:** THE TRUE COPY OF THE FIR NO.37/2006 DATED 07.02.2006 OF THE SREEKANDAPURAM POLICE STATION.
- ANNEXURE A2:** THE CERTIFIED COPY OF THE FINAL REPORT FILED UNDER SECTION 173 OF THE CODE OF CRIMINAL PROCEDURE IN C.C.NO.476/2011 ON THE FILE OF JFCM, TALIPARAMBA.
- ANNEXURE A3:** THE CERTIFIED COPY OF THE JUDGMENT DATED 31.03.2012 IN C.C.NO.821/2006 OF THE JFCM, TALIPARAMBA.

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

B. KEMAL PASHA, J.

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Crl.M.C. No.5943 of 2015
.....

Dated this the 30th day of September, 2015

ORDER

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Originally, the case against the petitioners and three other accused was taken on file by the court below as CC No.821/2006, which arose from Crime No.37/2006 of Sreekandapuram Police Station for the offences punishable under Sections 143, 147, 148, 452, 323 and 324 read with Section 149 IPC. As the petitioners, who were arraigned as accused 4 to 6, were absconding, the case against the other accused was proceeded with and case against the petitioners was split up. Case against the other accused ended in acquittal through Annexure-A3 judgment. Annexure-A3 judgment shows that there was a settlement arrived at between the said accused, who faced the trial, and the de facto complainant and the injured.

2. According to the petitioners, no purpose will be

served even if they are proceeded against further. The case against the present petitioners is pending as CC No.476/2011 before the court below. Again, the petitioners have absconded and presently, steps under Sections 82 and 83 against these petitioners are in progress.

3. Based on the decision of the Full Bench of this Court in ***Moosa Vs. Sub Inspector of Police*** [2006 (1) KLT 552], the petitioners cannot encash the earlier judgment of acquittal, especially when it reveals that the same was as a result of the settlement from the part of the accused, who faced the trial in the earlier case. Matters being so, this Crl.M.C. is devoid of merits and is only to be dismissed and, I do so.

In the result, this Crl.M.C. is dismissed.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/30/09

// True Copy //

PA to Judge