

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

Crl.MC.No. 5957 of 2015 ()

**LP.NO. 13/2013 OF PRINCIPAL SESSIONS COURT, KOLLAM
CRIME NO. 451/2007 OF CHATHANNOOR POLICE STATION, KOLLAM**

PETITIONER/ACCUSED :

**RAZIM, AGED 26 YEARS
S/O.ABDUL SALAM, MELOOTTY VEEDU,
KALAPADAM CHERRY, NEDUMPANA,
KOLLAM DISTRICT.**

**BY ADVS.SRI.SALIM V.S.
SRI.SHANAVAS S.
SRI.H.NUJUMUDEEN**

RESPONDENT/COMPLAINANT :

**STATE OF KERALA
THROUGH SUB INSPECTOR OF POLICE
CHATHANNOOR POLICE STATION, KOLLAM DISTRICT
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM,
PIN-682 031.**

BY PUBLIC PROSECUTOR SMT. P. MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 08-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Mn

...2/-

Crl.MC.No. 5957 of 2015 ()

APPENDIX

PETITIONERS' ANNEXURES :

ANNEXURE A1- TRUE COPY OF THE F.I.R IN CRIME NO.451/2007.

ANNEXURE A2- TRUE COPY OF THE FINAL REPORT IN CRIME NO.451/2007.

**ANNEXURE A3- TRUE COPY OF THE JUDGMENT IN S.C.688/09 ON THE FILE OF
THE PRINCIPAL SESSIONS COURT, KOLLAM.**

**ANNEXURE A4- TRUE COPY OF THE ORDER DATED 26.06.2015 IN
CRL.M.C.NO.6170/2014.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

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B. KEMAL PASHA, J.

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Crl.M.C. No.5957 of 2015 A
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Dated this the 8th day of October, 2015

ORDER

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Petitioner is the 5th accused in Crime No.451/2007 of Chathannoor Police Station. The final report was filed in the matter. As the petitioner was absconding, the case against him was split up and refiled. Subsequently, as he was not available, the case against him was entered in the LP Register as LP.13/2013 of the Sessions Court, Kollam. Accused Nos.2, 3, 4 and 6 faced the trial in SC.688/2009 and they were acquitted. Subsequently, A1 had approached this Court and it seems that a learned Single Judge of this Court had quashed the case against A1.

2. Going by the decision in ***Moos Vs. Sub Inspector of Police [2006 (1) KLT 552]***, an absconding accused cannot encash the acquittal in favour of the other

accused, who had faced the trial. Admittedly, there cannot be a settlement between the present petitioner and the de facto complainant as he was absconding for long. As per the orders of this Court, in fact, his application seeking bail was considered by the court below and he has been presently enlarged on bail. The case against him is presently refiled as SC.1141/2015. Some other grounds have already been raised by the petitioner which cannot be considered by this Court at this stage. Those questions can be mooted before the court below at the stage of Section 227 Cr.P.C., in case the petitioner is entitled to have a discharge in the matter.

With liberty to the petitioner to have recourse to such a procedure, this Crl.M.C. is closed.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/08/10

// True Copy //

PA to Judge