

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 7TH DAY OF SEPTEMBER 2015/16TH BHADRA, 1937

Cr1.MC.No. 5978 of 2015

IN CC 607/2015 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT,
PAYYANNUR

CRIME NO. 328/2010 OF PAYANGADI POLICE STATION, KANNUR

PETITIONER/ACCUSED NO 1:

KOYILERIAN RAJAN, AGED 45 YEARS,
S/O. THEKKAN KUNDAN, KOYILERIAN HOUSE,
MADAYI AMSOM,
PUTHIYANGADI BEACH ROAD, KANNUR DISTRICT

BY ADVS.SRI.ZUBAIR PULIKKOOL
SRI.P.S.BINU

RESPONDENTS/COMPLAINANT:

1. THEKKAN DAMAYANTHI, AGED 67 YEARS,
W/O.KUNHAMBU, THEKKAN HOUSE,
PUTHIYANGADI BEACH ROAD,
MADAYI AMSOM, MADAYI P.O,
KANNUR DISTRICT, PIN 670 304
2. THEKKAN SADANANDAN, AGED 51 YEARS,
S/O. GOPALAN, THEKKAN HOUSE,
PUTHIYANGADI BEACH ROAD,
MADAYI AMSOM, MADAYI P.O,
KANNUR DISTRICT, PIN 670 304
3. THEKKAN CHITHRA, AGED 33 YEARS,
D/O. DAMODARAN, M.V HOUSE,
PUTHIYANGADI BEACH ROAD,
MADAYI AMSOM, MADAYI P.O,
KANNUR DISTRICT, PIN 670 304
4. PAITHALERIYAN ASHRITHA, AGED 18 YEARS,
D/O. SADANANDAN, PUTHIYANGADI BEACH ROAD,
MADAYI AMSOM
MADAYI P.O, KANNUR DISTRICT, PIN 670 304.

5. THEKKAN ANEESH, AGED 37 YEARS,
S/O. HARIDASAN, MANJARAVALLAPPIL (H) ,
MOTTAMBRAM,
MADAYI AMSOM, MADAYI P.O,
KANNUR DISTRICT, PIN 670 304

6. THEKKAN MUKESH, AGED 27 YEARS,
S/O. DAMODARAN, M.V HOUSE,
PUTHIYANGADI BEACH ROAD,
MADAYI AMSOM, MADAYI P.O,
KANNUR DISTRICT PIN 670 304

7. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA,
ERNAKULAM PIN 682 031

R1-R6 BY ADV. SMT.P.A.ANEESHA
R7 BY PUBLIC PROSECUTOR SRI.JUSTIN JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 07-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

Cr1.MC.No. 5978 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE 1: COPY OF THE FINAL REPORT IN CRIME NO 328/2010 OF
PAZHAYANGADI POLICE STATION.

ANNEXURE II: COPY OF JUDGMENT IN C.C 729/10 OF JFCM COURT,
PAYYANNUR

ANNEXURE III: COPY OF THE AFFIDAVIT OF 1ST RESPONDENT

ANNEXURE IV: COPY OF THE AFFIDAVIT OF 2ND RESPONDENT

ANNEXURE V: COPY OF THE AFFIDAVIT OF 3RD RESPONDENT

ANNEXURE VI: COPY OF THE AFFIDAVIT OF 4TH RESPONDENT

ANNEXURE VII: COPY OF THE AFFIDAVIT OF 5TH RESPONDENT

ANNEXURE VIII: COPY OF THE AFFIDAVIT OF 6TH RESPONDENT

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.5978 of 2015

Dated this the 7th day of September, 2015

O R D E R

The petitioner herein is the original first accused in C.C No.729/2010 of the Judicial First Class Magistrate Court, Payyannur. The offences involved in the case are under Sections 143, 147, 448, 341, 323, 506(i) and 427 r/w 149 of the Indian Penal Code. The other six accused faced trial before the trial court and obtained a judgment of acquittal on 10.6.2015 when none of the material witnesses supported the prosecution. The case against the petitioner herein was split up and refiled as C.C No.607/2015 when he absconded. He 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 also on the ground of amicable settlement made out of court. Annexure II judgment in C.C. No.729/2010 shows that none of the material witnesses including the complainant supported the prosecution during trial. In such a circumstance, examination of the others was dispensed with

and evidence was closed by the trial court. The complainant and other injured persons were examined as PW1 to PW6 in the trial court, but all turned hostile in view of an amicable settlement made out of court. The victim has filed affidavit to the effect that the whole dispute stands settled, and that continuance of prosecution will not serve any purpose other than wasting the precious time of the court,

In the result, this petition is allowed. The prosecution against the petitioner in C.C No.607/2015 of the Judicial First Class Magistrate Court, Payyannur will stand quashed under Section 482 of the Code of Criminal Procedure.

**P.UBAID
JUDGE**

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