

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

Crl.MC.No. 6058 of 2015

**C.C.NO.1401/2005 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, CHALAKUDY
WHICH IS NOW PENDING AS L.P.R.NO.97/2009**

PETITIONER(S)/ACCUSED :

**ABDUL SATHAR, AGED 45 YEARS,
S/O.PAREETH, ATHIKUZHI HOUSE, METHALA,
PERUMBAVOOR, ERNAKULAM DISTRICT.**

**BY ADVS.SRI.S.SHANAVAS KHAN
SMT.S.INDU**

RESPONDENT(S)/COMPLAINANT :

**THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 29-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

- ANNEXURE A:** CERTIFIED COPY OF THE FIR IN CRIME NO.280/2002 OF MALA POLICE STATION.
- ANNEXURE B :** CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.280/2002 OF MALA POLICE STATION.
- ANNEXURE C :** CERTIFIED COPY OF THE JUDGMENT DATED 27-03-2009 IN C.C NO.1401/2005 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, CHALAKUDY.
- ANNEXURE D :** CERTIFIED COPY OF THE ORDER DATED 22-08-2015 IN CRL.M.C.NO.1773/2015 OF THE COURT OF SESSIONS JUDGE, THRISSUR.

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

PA.TO JUDGE.

Msd.

B.KEMAL PASHA, J.

=====

CRL.M.C. No.6058 of 2015

=====

Dated this the 29th day of September, 2015

ORDER

The petitioner is the 1st accused in Crime No.280 of 2002 of the Mala Police Station, for the offences punishable under Sections 468 and 473 IPC read with Section 34 IPC and Section 48 of the Kerala Mining and Mineral Concession Rules, 1967.

2. The petitioner is absconding and the case against him was split up and entered into the L.P. Register. According to the petitioner, no fruitful purpose will be served on the continued trial of the case against him as the other accused in the case were acquitted by the court below through Annexure C judgment.

3. Based on the decision of the Full Bench of this Court, in **Moosa v. Sub Inspector of Police [2006 (1) KLT 552]**, the petitioner cannot encash the acquittal of the other accused through Annexure C judgment. In case, charges are not framed against the petitioner in the matter, the petitioner can move the court below under Section 239 Cr.P.C. In such case, the court below shall consider the matter and pass appropriate orders.

With the said liberty, this Crl.M.C. is closed.

Sd/-

**B. KEMAL PASHA
JUDGE**

DSV/29/9/15

// True Copy //

P.A. To Judge