

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 5TH DAY OF OCTOBER 2015/13TH ASWINA, 1937

Crl.MC.No. 6105 of 2015 ()

**CC.NO. 162/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, NILAMBUR
CRIME NO. 180/2011 OF VAZHIKKADAVU POLICE STATION , MALAPPURAM DISTRICT**

PETITIONER/ACCUSED:

**HABEEB, S/O.KUNHARAMUTTY,AGED 31 YEARS,
KARAKULANGARA HOUSE, VELLIAYAMBURAM,
THEYYALA, TANUR, KANNUR DISTRICT.**

**BY ADVS.SRI.T.G.RAJENDRAN
SRI.T.R.TARIN
SMT.ANN SUSAN GEORGE
SRI.V.A.VINOD**

RESPONDENT(S)/COMPLAINANT/STATE:

- 1. SUB INSPECTOR OF POLICE,
VAZHIKKADAVU POLICE STATION,
MALAPPURAM DISTRICT-676 505.**
- 2. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

BY PUBLIC PROSECUTOR SMT. MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 05-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

sts

Crl.MC.No. 6105 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

ANNEX I : TRUE COPY OF THE FINAL REPORT.

**ANNEX II : COPY OF THE JUDGMENT OF ACQUITTAL IN CC 396/12 ON THE FILES
OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, NILAMBUR.**

RESPONDENT(S)' ANNEXURES: NIL

/TRUE COPY/

P.S.TO JUDGE

sts

B. KEMAL PASHA, J.

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Crl.M.C. No. 6105 of 2015
.....

Dated this the 5th day of October, 2015

ORDER

Petitioner is the accused in C.C.No.162/2014 of the Judicial First Class Magistrate's Court, Nilambur which has arisen from Crime No.180/2011 of the Vazhikkadavu Police Station, Malappuram, registered for the offences punishable under Sections 457, 461 and 380 read with Section 34 of the IPC.

2. Petitioner was the first accused in the crime, and his wife was the 2nd accused. As the petitioner was absconding, he was not available for the trial and consequently the case against the 2nd accused was proceeded with as C.C.No.396/2012. The trial of that case ended in an acquittal through Annexure II judgment.

3. According to the petitioner, no purpose would be served in proceeding with the trial of the case, as all the witnesses, including the defacto complainant, were hostile in C.C.No.396/2012. Going by the decision of the Full Bench of this Court in ***Moosa v. Sub Inspector of Police***[2006 (1) KLT 552], the petitioner cannot encash an acquittal of the other accused in such matters. Matters being so, this Crl.M.C. is devoid of merits and is only to be dismissed, and I do so.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge