

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 15TH DAY OF SEPTEMBER 2015/24TH BHADRA, 1937

Crl.MC.No. 6157 of 2015

**SC 202/2015 OF ASST.SESSIONS COURT, VATAKARA
CRIME NO. 407/2011 OF NADAPURAM POLICE STATION , KOZHIKODE**

PETITIONER(S)/ACCUSED NO.2 IN CRIME NO.407/2011:

**MUHAMMED SHIFAR, S/O.MOIDU HAJI,
POLERI THAZHE KUNIYIL HOUSE,
KUTTPRAM AMSOM CHELAKKAD DESOM,
VATAKARA TALUK, KALLACHI P.O.,
KOZHIKODE DISTRICT, PIN-673506.**

**BY ADVS.SRI.U.P.BALAKRISHNAN
SRI.K.R.AVINASH (KUNNATH)**

RESPONDENT(S)/COMPLAINANT AND STATE:

- 1. SUB INSPECTOR OF POLICE,
NADAPURAM POLICE STATION, NADAPURAM P.O.,
KOZHIKODE DISTRICT, PIN-673505.**
- 2. THE STATE OF KERALA,
REP.BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682031.**

BY PUBLIC PROSECUTOR SMT.SAREENA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 15-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

Crl.MC.No. 6157 of 2015

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE A I- THE TRUE COPY OF THE FINAL REPORT DATED 30/12/11 IN CRIME
NO.407/11 OF NADAPURAM POLICE STATION**

**ANNEXURE A2: THE TRUE COPY OF THE JUDGMENT OF THE ASST.SESIONS
JUDGE'S COURT, VATAKARA IN SC.738/2012 DATED 30/9/14.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

B. KEMAL PASHA, J.

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Crl.M.C. No.6157 of 2015
.....

Dated this the 15th day of September, 2015

ORDER

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Petitioner is the 2nd accused in Crime No.407/2011 of the Nadapuram Police Station for the offences punishable under Sections 143, 147, 148, 341, 323, 326, 427 and 308 read with Section 149 IPC. According to the petitioner, three of the accused had faced the trial before the Assistant Sessions Court, Vatakara through SC No.738/2012 and they were acquitted. The case against the petitioner is presently pending as SC No.202/2015 before the court below.

2. On hearing the learned counsel for the petitioner and on perusing Annexure-A2 judgment passed by the Assistant Sessions Court, Vatakara in SC.738/2012, it has come out that injured PW1 had not identified the said accused who faced the trial as persons who were present

among the persons who attacked him. When the petitioner was not present in the dock, it cannot be said that there will not be any chance of his identification as one of the persons who attacked PW1. Matters being so, this is not a fit case wherein the charges against the petitioner can be quashed.

In the result, this CrI.M.C. is dismissed. The learned counsel for the petitioner has pointed out that the matter has been settled between the petitioner and PW1, the injured. In such case, the court below shall expedite the trial of the case especially when the matter stands settled.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/15/09

// True Copy //

PA to Judge