

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 7TH DAY OF OCTOBER 2015/15TH ASWINA, 1937

Crl.MC.No. 6326 of 2015 ()

CC 720/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT, VADAKARA

PETITIONER/ACCUSED :

**JALEEL, AGED 29 YEARS, S/O. JAMAL,
VAZHIKKAMANDATH HOUSE, THIKKODI P.O.
KOZHIKODE DISTRICT.**

**BY ADVS.SRI.G.SREEKUMAR (CHELUR)
SRI.K.ASHIS**

RESPONDENT/RESPONDENT/COMPLAINANT:

**STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 07-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE I : CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.277 OF 2009 OF CHOMBALA POLICE STATION, DTD.2.12.2009.

ANNEXURE II: CERTIFIED COPY OF THE JUDGMENT IN CC NO.1185 OF 2009, DTD.17.5.2014.

ANNEXURE III: CERTIFIED COPY OF THE DEPOSITION OF PW-1 IN CC NO.1185 OF 2009.

ANNEXURE IV: CERTIFIED COPY OF THE DEPOSITION OF PW-4 IN CC NO.1185 OF 2009.

ANNEXURE V: CERTIFIED COPY OF THE DEPOSITION OF PW-5 IN CC NO.1185 OF 2009.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

B. KEMAL PASHA, J.

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Crl.M.C. No.6326 of 2015 C
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Dated this the 7th day of October, 2015

ORDER

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Petitioner is the 4th accused in Crime No.277/2009 of Chombala Police Station registered for the offences punishable under Sections 353, 341 and 323 read with Section 34 IPC. Final report was filed and the matter was pending before the Judicial First Class Magistrate's Court, Vatakara as CC No.1185/2009. As the petitioner was absconding, the case against the other accused was proceeded with and they were acquitted under Section 255 (1) Cr.P.C. The case against the petitioner is split up and refiled as CC No.720/2014.

2. According to the petitioner, in view of the judgment of acquittal, which is Annexure-II, passed by the court below, the continued trial of the case against the petitioner would be a futile exercise and, therefore, he seeks

to get the proceedings against him, quashed.

3. Following the decision of the Full Bench of this Court in ***Moosa Vs. Sub Inspector of Police [2006 (1) KLT 552]***, the petitioner, being an absconding accused, cannot encash the judgment of acquittal passed in favour of the other accused. The relief sought for by the petitioner cannot be granted. Matters being so, this Crl.M.C. is devoid of merits and is only to be dismissed.

In the result, this Crl.M.C. is dismissed. The court below shall dispose of the application seeking bail that may be filed by the petitioner on his surrender before the court below within 15 days from today, on the date of its filing itself, provided advance notice on such application has been given to the Assistant Public Prosecutor also.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/07/10

// True Copy //

PA to Judge