

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 4TH DAY OF NOVEMBER 2015/13TH KARTHIKA, 1937

Crl.MC.No. 6734 of 2015

**CC 522/2012 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, PAYYANNUR, KANNUR
CRIME NO. 49/1993 OF PAYYANNUR POLICE STATION, KANNUR**

PETITIONER(S)/ACCUSED NO.5:

**ITTAMMAL PRAKASHAN, AGED 43 YEARS,
S/O.KUNHIKKORAN,
RAMATHALI AMSOM AND DESOM OF TALIPARAMBA TALUK,
P.O RAMANTHALI, KANNUR 670 306.**

BY ADV. SRI.MAHESH V RAMAKRISHNAN

RESPONDENT(S)/STATE:

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

BY PUBLIC PROSECUTOR SMT.SAREENA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 04-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' ANNEXURES

ANNEXURE 1. COPY OF THE FIRST INFORMATION REPORT DATED 10.2.93 IN CRIME NO.49/93 OF THE SHO PAYYANNUR POLICE STATION.

ANNEXURE 2. COPY OF THE CHARGE SHEET DATED 1.8.94 IN CF 522/12 OF THE JUDICIAL FIRST CLASS MAGISTRATE OF PAYYANNUR.

ANNEXURE 3. COPY OF THE JUDGMENT DATED 28.1.98 IN CC 523 OF 1994 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE OF PAYYANUR.

ANNEXURE 4. COPY OF THE JUDGMENT DATED 28.9.06 IN CC 136/03 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, PAYYANUR.

ANNEXURE 5. COPY OF THE JUDGMENT DATED 29.9.08 IN CC 381 OF 2006 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, PAYYANUR.

ANNEXURE 6. COPY OF THE DEATH CERTIFICATE DATED 29.9.11 ISSUED BY THE REGISTRAR OF BIRTHS AND DEATHS, PAYYANUR MUNICIPALITY.

RESPONDENT(S)' ANNEXURES

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

B. KEMAL PASHA, J.

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Crl.M.C. No.6734 of 2015 B
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Dated this the 4th day of November, 2015

ORDER

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Petitioner is the 5th accused in Crime No.49/1993 of Payyannur Police Station for the offences punishable under Sections 143, 147, 148 and 324 read with Section 149 IPC. The matter was investigated and the final report was filed. The case was taken into file as CC No.523/1994 of the Judicial First Class Magistrate's Court, Payyannur. The case against A4, A5 and A11 was split up and later, transferred to LP Register as LP.9/2000. The trial against the other accused was proceeded with in CC No.523/1994, which culminated in an acquittal through Annexure-A3 judgment.

2. Thereafter, the case against A11 was refiled as CC No.136/2003. The said accused was also acquitted

through Annexure-A4 judgment. Subsequently, A4 was arrested and produced and the case against him was refiled as CC No.381/2006. After trial, he was also acquitted through Annexure-A5 judgment. The present petitioner, who was the 5th accused in the crime, was the only remaining accused. The case against the petitioner is presently pending as CC No.522/2012.

3. In the meantime, CW1, who was the sole injured in the case died. Annexure-A6 is his death certificate.

4. On going through the aforesaid judgments by which the other accused were acquitted, it seems that all the witnesses, including CW1, turned hostile to the prosecution and did not support the prosecution case. Any of the accused were not identified. When the sole injured in the case is no more, there is no chance for conviction in the case, even if the trial is proceeded with. Matters being so, all further proceedings as against the petitioner in CC No.522/1994 of the Judicial First Class Magistrate's Court,

Payyannur, can be quashed.

In the result, this Crl.M.C. is allowed and all further proceedings as against the petitioner in CC No.522/1994 of the Judicial First Class Magistrate's Court, Payyannur, based on Annexure-A2 final report, are quashed.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/04/11

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PA to Judge