

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

Crl.MC.No. 6754 of 2015 ()

CRIME NO. 986/2007 OF THODUPUZHA POLICE STATION, IDUKKI DISTRICT

PETITIONER/ACCUSED :

**ABY, AGED 35,
S/O.KURIAN, IDAYATHUKUDIYIL HOUSE, PAZHAMGARAKARA
PINDIMANA VILLAGE, KOTHAMANGALAM TALUK
ERNAKULAM DISTRICT.**

**BY ADVS.SRI.R.BINDU (SASTHAMANGALAM)
SRI.PRASANTH M.P**

RESPONDENT/COMPLAINANT/STATE :

**STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, PIN 682031**

BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 30-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Mn

...2/-

Crl.MC.No. 6754 of 2015 ()

APPENDIX

PETITIONERS' ANNEXURES :

**ANNEXURE I: CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.986/2007 OF
THODUPUZHA POLICE STATION DATED 30.06.2009.**

**ANNEXURE II: TRUE COPY OF THE JUDGMENT PASSED BY THE SECOND
ADDITIONAL SESSIONS COURT (SPECIAL JUDGE FOR NDPS CASES),
THODUPUZHA IN SC NO.13/2010 DATED 29.07.2010.**

**ANNEXURE III: TRUE COPY OF THE JUDGMENT PASSED BY THE SECOND
ADDITIONAL SESSIONS COURT (SPECIAL JUDGE FOR NDPS CASES)
THODUPUZHA IN SC.NO.445/2010 DATED 03.12.2011**

RESPONDENT(S)' ANNEXURES : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

B.KEMAL PASHA, J.

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Crl.M.C. No. 6754 of 2015

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Dated this the 30th day of October, 2015

ORDER

The petitioner, who is the accused in S.C.No.119 of 2015 of the Second Additional Sessions Court (Special Judge for NDPS Act Cases), Thodupuzha, has come up to get the proceedings in the case against him quashed. The offence alleged is one under Section 395 IPC.

2. Very serious allegations are there against the petitioner and the other accused. It is a fact that the other accused in the case had faced trial and they were acquitted. 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 judgment of acquittal of the other accused, who faced the trial and were acquitted, for canvassing his acquittal. When such a serious offence is alleged against the petitioner, the petitioner has to face the trial before the court below.

3. It seems that the learned counsel for the petitioner submits that the matter has been settled between the parties. Such a settlement cannot be accepted and endorsed by this Court. At the same time, the acquittal of the other accused can be taken note of by the court below and in such case, the court below can expedite the trial of the case by taking it out of turn and dispose of the same expeditiously.

With the said observations, this Crl.M.C. is dismissed.

Sd/-

**B.KEMAL PASHA
JUDGE**

DSV/30/10/15

// True Copy //

P.A. To Judge