

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 21ST DAY OF OCTOBER 2015/29TH ASWINA, 1937

Crl.MC.No. 6829 of 2015

SC 922/2013 OF SESSIONS COURT, THRISSUR

CP 47/2006 of J.M.F.C.-I, THRISSUR

CRIME NO. 1341/2005 OF TOWN EAST POLICE STATION, THRISSUR

PETITIONER/ACCUSED NO.2 :-

**SALAM, AGED 39, S/O.HAMSA,
VALIYAKATH PERUMVEETIL,
KUTTOOR VILLAGE, VALYAPARAMBU, TRICHUR.**

**BY ADVS.SRI.GEO PAUL
SRI.SANU MATHEW
SRI.RADHIKA RAJASEKHARAN P.
SRI.C.R.PRAMOD
SRI.S.ASHOK KUMAR.
SRI.LENIN P. SUKUMARAN
SRI.JERRY VARGHESE**

RESPONDENT(S)COMPLAINANT/STATE :-

**STATE OF KERALA,
REPRESENTED BY THE DEPUTY SUPERINTENDENT OF POLICE,
THRISSUR - 680 503 THROUGH PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN - 682 031.**

R BY SMT.M.T.SHEEBA, PUBLIC PROSECUTOR

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 21-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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APPENDIX

PETITIONER(S) ANNEXURES :-

**ANNEXURE A1 : CERTIFIED COPY OF THE CHARGE SHEET IN S.C.NO.922 OF 2013
ON THE FILES OF SESSIONS COURT, THRISSUR.**

**ANNEXURE A2 : CERTIFIED COPY OF THE DEPOSITION OF THE DE-FACTO
COMPLAINANT.**

**ANNEXURE A3 : TRUE COPY OF THE JUDGMENT DATED 13.01.2011 IN S.C.NO.
561/2007 ON THE FILES OF SESSIONS COURT, THRISSUR.**

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

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P.UBAID, J.

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Crl.M.C.No.6829 of 2015

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Dated this the 21st day of October, 2015

ORDER

The petitioner herein is the original accused No.2 in S.C.No. 561 of 2007 of the Court of Session, Thrissur. The other three accused faced trial before the trial court, and obtained a judgment of acquittal on 13.01.2011. The offences involved in this case are under Sections 366, 376 and 120(B) read with Section 34 of the Indian Penal Code and under Section 3(1)(xi) of the Scheduled Castes and Schedules Tribes(Prevention of Atrocities)Act. The other accused obtained a judgment of acquittal under Section 232 Cr.P.C. when all the material witnesses turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. The prosecution examined eleven witnesses in the said case, and also marked Ext.P1 to P16. None of the material witnesses examined in the case supported the prosecution. In such a circumstance, examination of the others was dispensed with and evidence was closed by the trial court. In the absence of any evidence or incriminating circumstance, the learned trial Judge acquitted the

accused Nos.1, 3 and 4. The case against the petitioner was split up and re-filed as S.C.No.922 of 2013 when he absconded. The petitioner now seeks orders quashing the prosecution as against him on the ground that the very substratum of the prosecution case is totally lost by the acquittal of the others, and continuance of prosecution against him will not serve any purpose. Annexure-A3 judgment in S.C.No. 561 of 2007 shows that all the material witnesses examined by the prosecution in the said case turned hostile in view of an amicable settlement made by the parties out of court. In such a situation, it is quite definite that the prosecution cannot in any manner improve the case, and the witnesses also cannot in any manner help the prosecution, if the case against the petitioner goes to trial. In short, such proceeding will be a sheer waste of time.

In the result, this petition is allowed. The prosecution against the petitioner in S.C.No.922 of 2013 of the Court of Session, Thrissur will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution, and the bail bond, if any, executed by him will stand discharged.

Sd/-
P.UBAID
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE