

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 30TH DAY OF NOVEMBER 2015/9TH AGRAHAYANA, 1937

CrI.MC.No. 7287 of 2015 (A)

CC 544/2015 of JUDICIAL FIRST CLASS MAGISTRATE COURT-I,
PERINTHALMANNA
CRIME NO. 1305/2012 OF PERINTHALMANNA POLICE STATION, MALAPPURAM

PETITIONER/ACCUSED:

MUHAMMED RAFI,
S/O.MOIDEEN KUTTY
AGED 27,
KARATTUPARAMBIL HOUSE,
KATTUPPARA
PERINTHALMANNA,
MALAPPURAM.

BY ADVS.SRI.C.M.KAMMAPPU
SMT.N.S.FATHIMATH SUHRA

RESPONDENT/STATE:

STATE OF KERALA
THROUGH SUB-INSPECTOR OF POLICE,
PERINTHALMANNA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SMT. SHEEBA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
30-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 7287 of 2015 (A)

APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNX.I - CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.1305/2012
OF PERINTHALMANNA POLICE STATION.**

**ANNX.II - CERTIFIED COPY OF THE JUDGMENT IN CC NO.8/2013 OF
JUDICIAL FIRST CLASS MAGISTRATE COURT-I
PERINTHALMANNA.**

RESPONDENT(S)' ANNEXURES:- NIL

/TRUE COPY/

P.A. TO JUDGE

DCS

P. UBAID, J.

Crl.M.C.No.7287 of 2015

Dated this the 30th day of November, 2015

O R D E R

The petitioner herein is the original first accused in C.C. No. 8/2013 of the Judicial First Class Magistrate Court - I, Perinthalmanna. The offences involved in this case are under Sections 353 and 509 IPC read with Section 34 IPC, and under Sections 119(b) and 120(f) of Kerala Police Act. The other three accused faced trial before the learned Magistrate in C.C. No.8/2013 and obtained a judgment of acquittal when the de facto complainant examined as PW 1 did not support the prosecution in any manner. She turned hostile to the prosecution in view of an amicable settlement made by the parties out of Court. 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 Magistrate acquitted the accused Nos.2 and 3. The case against the petitioner herein was split up and refiled as C.C. No. 544/2015. 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 -II judgment in C.C. No. 8/2013 shows that the material witness 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 C.C. No. 544/2015 of the Judicial First Class Magistrate Court - I, Perinthalmanna 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.

P. UBAID, JUDGE

DCS