

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

Crl.MC.No. 6140 of 2014 ()

**LPC 96/2006 of JUDICIAL FIRST CLASS MAGISTRATE COURT, KASARAGOD
CRIME NO. 176/2000 OF ADHUR POLICE STATION , KASARGOD DISTRICT**

PETITIONER/ACCUSED:

**P. MOIDEEN, AGED 29 YEARS
S/O.ABDUL KHADER, AZYNAM COTTAGE
MASTHIKUNDU, MULIYAR, KASARAGOD TALUK.**

BY ADV. SRI.T.B.SHAJIMON

RESPONDENTS/RESPONDENTS/COMPLAINANT/STATE:

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

BY PUBLIC PROSECUTOR SMT. S. HYMA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10-02-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

**ANNEXURE A1- THE COPY OF ORDER IN C.C.NO.853/2003 ON THE FILE OF THE
JUDICIAL FIRST CLASS MAGISTRATE, KASARAGOD.**

**ANNEXURE A2- THE CERTIFIED COPY OF THE FINAL REPORT FILED BY THE
RESPONDENT.**

RESPONDENT'S EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.6140 of 2014

Dated this the 10th day of February, 2015

JUDGMENT

The petitioner herein is the original 2nd accused in Crime No. 176/2000 of the Adhur Police Station. Three of the accused faced trial before the learned Magistrate in C.C.No.296/2001, and obtained a judgment of acquittal on 24.09.2003, when the prosecution failed to produce the material witnesses, and thus failed to adduce any evidence in the case. The case against the other two accused including the petitioner herein was split up and refiled as C.C.No.853/2003. In the said case, the 4th accused faced trial, and he also obtained a judgment of acquittal on 12.07.2014, when the prosecution failed to adduce any evidence. The witnesses examined by prosecution in C.C.No.853/2003 turned hostile. The case against the petitioner herein was again refiled as C.C.No.664/04. When the petitioner consistently remained absent, it was transferred to the register of long pending cases as L.P.C.No.96/2006. He now seeks orders quashing the prosecution on the ground that the very substratum

of the prosecution case stands totally lost, and continuance of the prosecution against him will not serve any purpose. I am well satisfied that in the present circumstance, continuance of prosecution against the petitioner will be a sheer waste of time. The very substratum of the prosecution case stands totally lost by the acquittal of the other four accused at two stages. The prosecution cannot in any manner improve the case against the petitioner herein, if it goes to trial. Just because the case stands transferred to the register of long pending cases, relief cannot be disallowed when orders quashing the prosecution will save the precious time of the court.

In the result, this Crl.M.C. is allowed. The prosecution against the petitioner herein in Crime No.176/2000 of the Adhur Police Station in C.C.No.664/04, which now stands transferred to the register of long pending cases as L.P.C.No.96/2006 before the Judicial First Class Magistrate Court, Kasaragod, will stand quashed under Section 482 Cr.P.C.

Sd/-

P. UBAID, JUDGE

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