

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936`

Crl.MC.No. 6169 of 2014 ()

**-----
CC 565/2013 of JUDICIAL FIRST CLASS MAGISTRATE COURT-II, HOSDRUG
CRIME NO. 669/2010 OF BEKAL POLICE STATION , KASARGOD DISTRICT
=====**

PETITIONER/ACCUSED NO.2:

**-----
SAMEER M.M., S/O. MOIDU, NULLIPADY
KASABA VILLAGE, KASARAGOD.**

**BY ADVS.SRI.SALIM V.S.
SRI.SHANAVAS.S
SRI.H.NUJUMUDEEN
SRI.P.V.JEEVESH**

RESPONDENTS/COMPLAINANT:

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

BY PUBLIC PROSECUTOR SMT. P. MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03-02-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 6169 of 2014 ()

APPENDIX

PETITIONER'S EXHIBITS

ANNEXURE A1- CERTIFIED COPY OF THE F.I.R IN CRIME NO. 669/10.

ANNEXURE A2- CERTIFIED COPY OF THE FINAL REPORT.

ANNEXURE A3- CERTIFIED COPY OF THE JUDGMENT IN CC 1256/10 DTD. 6-4-2013.

RESPONDENT'S EXHIBITS

NIL

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

SD

P. UBAID, J.

Crl.M.C.No.6169 of 2014

Dated this the 3rd day of February, 2015

O R D E R

The petitioner herein is the original accused No.6 in C.C .No. 1256/2010 of the Judicial First Class Magistrate Court-II, Hosdurg. The offences involved in this case are under Sections 143, 147, 148, 452, 324 and 427 IPC read with 149 IPC. The original accused Nos. 1 to 3, 5, 7, 8 and 10 faced trial in C.C.No.1256/2010 before the trial court, and obtained a judgment of acquittal dated 06.04.2013 under Section 248(1) 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 five witnesses in the said case, and also marked Ext. P1. 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. 1 to 3, 5, 7, 8 and 10. The case against the petitioner herein was split up and refiled, and it is now pending as C.C.No.565/2013 before the Judicial First Class Magistrate Court-II,

Hosdurg. 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 C.C.No.1256/2010 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 C.C.No.565/2013 before the Judicial First Class Magistrate Court, 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

sd