

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 24TH DAY OF NOVEMBER 2015/3RD AGRAHAYANA, 1937

Crl.MC.No. 7377 of 2015

LPC 14/2014 of J.M.F.C.-II, KANNUR

CRIME NO. 86/2006 OF VALAPPATANAM POLICE STATION , KANNUR

PETITIONER(S)/ACCUSED NO.24 :-

**M.P.RASHIM, S/O.ABDULLA,
MEETHALE PURAYIL HOUSE, KANNADIPPARAMBU,
KANNUR DISTRICT.**

**BY ADVS.SRI.G.S.KRISHNAN KARTHA
SRI.LIJIN THAMBAN
SRI.K.K.MUHAMMAD FOUZ**

RESPONDENT(S)/COMPLAINANT & STATE :-

- 1. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN-682 031.**
- 2. SALINA, W/O.CHANDRAN, AGED 47 YEARS,
KALLEN HOUSE, KADAVATH VAYAL,
PAPPINISSERI, KANNUR DISTRICT, PIN-670 561.**

**R2 BY ADV. SRI.S.SABARINADH
R1 BY SRI.JUSTIN JACOB, PUBLIC PROSECUTOR**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 24-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNEXURE-A1 : CERTIFIED COPY OF THE FIR NO.86/2006 OF VALAPATTANAM
POLICE STATION.**

**ANNEXURE-A2 : CERTIFIED COPY OF FINAL REPORT IN CRIME NO.86/2006 OF
VALAPATTANAM POLICE STATION.**

ANNEXURE-A3 : TRUE COPY OF JUDGMENT IN CC 447/2010 OF JFCMC-II, KANNUR.

**ANNEXURE-A4 : TRUE COPY OF JUDGMENT IN CRL.MC NO.3011/2015 OF THE
HONOURABLE HIGH COURT OF KERALA.**

ANNEXURE-A5 : AFFIDAVIT SWORN BY THE 2ND RESPONDENT.

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.7377 of 2015

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Dated this the 24th day of November, 2015

ORDER

The petitioner herein is the original accused No.24 in Crime No.86 of 2006 of the Valapattanam Police Station. The offences involved in the crime are under Sections 143, 147, 148, 452 and 427 read with Section 149 of the Indian Penal Code. Cognizance on final report was originally taken as C.C.No.447 of 2010 by the learned Judicial First Class Magistrate Court-II, Kannur. In the said case, some other accused faced trial and obtained a judgment of acquittal on 16.2.2012, when nobody supported the prosecution in view of the amicable settlement made by the parties out of court. The case against the others including the petitioner herein was split up, when they remained absent during the proceeding. Subsequently, the against the original 6th accused re-filed as C.C.No.1915 of 2014 was quashed by

this Court on 9.7.2015 as per order in Crl.M.C.No.3011 of 2015. The case against the petitioner was transferred to the register of long pending cases as L.P.No.14 of 2014. Pending the proceedings he surrendered before the learned Magistrarte, and his case now stands refiled as C.C.No.1746 of 2015. The petitioner seeks orders quashing the said prosecution on the ground of amicable settlement, and also on the ground that the very substratum of the prosecution case is totally lost by the acquittal of the others. The defacto complaiant on whose complaint the police registered the crime, is the second respondent herein. She has filed affidavit to the effect that the whole dispute stands settled and resolved forever, and she has no grievance or complaint now. I am well satisfied that there is a genuine settlement between the parties, and that the prosecution cannot in any manner improve the case, if it goes to trial. The very substratum of the prosecution case stands totally lost.

In the result, this petition is allowed. The prosecution against the petitioner in CC.C.No.1746 of 2015 of the Judicial First Class Magistrate Court-II, Kannur will stand

quashed under Section 482 of the Code of Criminal Procedure.

Sd/-
P.UBAID
JUDGE

rkj

//TRUE COPY//

P.A. TO JDUGE