

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. 7393 of 2015

CC 1128/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT - I, MANJERI

CRIME NO.203/2013 OF KARUVARAKUNDU POLICE STATION, MALAPPURAM

PETITIONER/A2 :-

**SHAHUL HAMEED, AGED 37 YEARS,
S/O KOYA, KUNNATH HOUSE, MATHOTH,
TUVVUR AMSOM, NILAMBUR TALUK,
MALAPPURAM DISTRICT.**

BY ADV. SRI.P.VENUGOPAL

RESPONDENT(S)/STAE , DEFACTO-COMPLAINANT & INJURED :-

- 1. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PRSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. SUHAIB, AGED 25 YEARS,
S/O MUHAMMED, VELLANCHOLA HOUSE,
TUVVUR AMSOM DESOM, NILAMBUR TALUK,
MALAPPURAM DISTRICT, PIN-679 327.**
- 3. SUBAIDA, AGED 48 YEARS,W/O MUHAMMED,
VELLANCHOLA HOUSE,
TUVVUR AMSOM DESOM, NILAMBUR TALUK,
MALAPPURAM DISTRICT, PIN-679 327.**
- 4. ILLYAS, AGED 27 YEARS,S/O MUHAMMED, PAKIDEERI HOUSE,
TUVVUR AMSOM DESOM, NILAMBUR TALUK,
MALAPPURAM DISTRICT, PIN-679 327.**
- 5. SANOOP, AGED 24 YEARS,
S/O. CHATHAN, MARUTHATH HOUSE,
TUVVUR AMSOM DESOM, NILAMBUR TALUK,
MALAPPURAM DISTRICT, PIN-679 327.**

Contd.....

**6. MOHAMMED HANEEFA, AGED 27 YEARS,
S/O BEERAN, PARAVETTY HOUSE,
TUVVUR AMSOM DESOM, NILAMBUR TALK,
MALAPPURAM DISTRICT, PIN-679 327.**

**7. ABDUL HAKEEM, AGED 24 YEARS,
S/O.BEERAN, PARAVETTY HOUSE,
TUVVUR AMSOM DESOM, NILAMBUR TALUK,
MALAPPURAM DISTRICT, PIN-679 327.**

**R2 TO R7 BY ADV. SMT.T.J.MARIA GORETTI
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 A : TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME NO. 203/13 OF KARUVARAKUNDU POLICE POLICE STATION.

ANNEXURE B : TRUE COPY OF THE FINAL REPORT IN CRIME NO. 203/13 FO KARUVARAKUNDU POLICE STATION.

ANNEXURE C : TRUE COPY OF THE JUDGMENT DATED 12/7/15 PASSED BY THE JFCM COURT-I, MANJERI IN C.C. NO. 1149/2013.

ANNEXURE D : AFFIDAVIT EXECUTED BY THE 2ND RESPONDENT.

ANNEXURE E : AFFIDAVIT EXECUTED BY THE 3RD RESPONDENT.

ANNEXURE F : AFFIDAVIT EXECUTED BY THE 4TH RESPONDENT.

ANNEXURE G : AFFIDAVIT EXECUTED BY THE 5TH RESPONDENT.

ANNEXURE H : AFFIDAVIT EXECUTED BY THE 6TH RESPONDENT.

ANNEXURE I : AFFIDAVIT EXECUTED BY THE 7TH RESPONDENT.

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A.TO JUDGE

rkj

P.UBAID, J.

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Crl.M.C.No.7393 of 2015

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Dated this the 24th day of November, 2015

ORDER

The petitioner herein is the original accused No.2 in C.C.No. 1149 of 2013 of the Judicial First Class Magistrate Court-I, Manjeri. All the other 13 accused faced trial in C.C.No. 1149 of 2013 before the learned Magistrate, and obtained a judgment of acquittal on 12.7.2015. The offences involved in this case are under Sections 143, 147, 148, 452, 354, 324 and 326 read with Section 149 of the Indian Penal Code. The other accused obtained a judgment of acquittal 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 12 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 and 3 to 14. The case against the petitioner was split up and re-filed as C.C.No.1128 of 2015, when they remained absent. 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 the prosecution against him will not serve any purpose. Annexure-C judgment in C.C.No.1149 of 2013 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. The petitioner seeks orders on the ground of amicable settlement also. All the victims of offence, already examined as PW1 to PW6 in C.C.No.1149 of 2013, have filed affidavit to the effect that the whole dispute stands settled out of court, and that they have no grievance or complaint.

In the result, this petition is allowed. The prosecution against the petitioner in C.C.No.1128 of 2015 of the Judicial First Class

Magistrate Court-I, Manjeri 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.

rkj

Sd/-
P.UBAID
JUDGE

//TRUE COPY//

P.A. TO JDUGE