

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

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

Crl.MC.No. 7397 of 2015

**CC 495/2013 IN CC.713/2009 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-I,
PERINTHALMANNA
CRIME NO. 174/2009 OF PERINTHALMANNA POLICE STATION, MALAPPURAM**

PETITIONER(S)/ACCUSED:

**MOHAMMED SHEREEF, AGED 34 YEARS,
S/O MHAMMEDALI, PILAKKAL HOUSE, MATTARAKKAL,
THAZHEKODE, PERINTALMANNA, MALAPPURAM DISTRICT.**

BY ADV. SRI.P.SAMSUDIN

RESPONDENT(S)/STATE AND DE-FACTOR COMPLAINANT:

**1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031 (IN CR.NO. 174/09
OF PERINTALMANNA POLICE STATION IN MALAPPURAM DISTRICT).**

**2. ABOOBACKER, AGED 52 YEARS,
S/O. KUNJIPPU, ARANJIKKAL MATTARAKKAL, THAZHEKODE
PERINTALMANNA-679 322, MALAPPURAM DISTRICT.**

**R1 BY PUBLIC PROSECUTOR SMT.MAYA
R2 BY ADV. SRI.K.C.ANTONY MATHEW**

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

PJ

Crl.MC.No. 7397 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES

**ANNEXURE A1: TRUE COPY OF THE FINAL REPORT IN CRIME NO. 174/09 OF
PERINTALMANNA POLCIE STATION**

**ANNEXURE A2: TRUE COPY OF THE JUDGMENT DT. 29/6/13 IN CC NO 713/09 ON
THE FILES OF JFCM COURT I PERINTALMANNA**

ANNEXURE A3: THE AFFIDAVIT DT. 19/11/15 SWORN IN BY THE 2ND RESPONDENT

RESPONDENT(S)' ANNEXURES

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

B. KEMAL PASHA, J.

.....
CRL.M.C. No. 7397 of 2015
.....

Dated this the 30th day of November, 2015

ORDER

Petitioner was the 3rd accused in C.C.No.713/2009 of the Judicial First Class Magistrate's Court-I, Perinthalmanna, which had arisen from Crime No.174/2009 of the Perinthalmanna Police Station, for the offences punishable under Sections 452, 324 and 427 of the Indian Penal Code read with Section 34 of IPC.

2. As the petitioner was abroad, the case against him was split up and re-filed as C.C.No.495/13 before the Judicial First Class Magistrate's Court-I, Perinthalmanna. The case against A1 and A2 was proceeded with in C.C.No.713/2009, which has culminated in their acquittal

through Annexure A2 judgment.

3. On going through Annexure A2 judgment, it seems that there was no evidence against the 3rd accused and the witnesses did not support the prosecution case. Even if the prosecution in C.C.No.495/13 is continued, there will not be any chance for a conviction. In such case, there is no meaning in proceeding with the futile exercise. Moreover, it seems that the matter has been amicably settled between the parties.

4. The second respondent herein, who is the defacto complainant, has filed Annexure A3 affidavit affirming that the matter has been amicably settled between him and the petitioner and he has no complaints against the petitioner. When the matter has been amicably settled between the parties, no purpose would be served in proceeding with the matter any further. Matters being so, all further proceedings in C.C. No.495/2013 of the Judicial First Class Magistrate's Court-I, Perinthalmanna, which had arisen from Crime

No.174/2009 of the Perinthalmanna Police Station, can be quashed.

In the result, this Crl.M.C. is allowed and all further proceedings in C.C. No.495/2013 of the Judicial First Class Magistrate's Court-I, Perinthalmanna, which had arisen from Crime No.174/2009 of the Perinthalmanna Police Station, are hereby quashed.

Sd/- B.KEMAL PASHA, JUDGE

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[True copy]

P.S. to Judge