

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

Crl.MC.No. 6236 of 2014 ()

**IN CC 442/2014 of CHIEF JUDICIAL MAGISTRATE COURT, KASARAGOD
CRIME NO. 52/2007 OF KASARAGOD POLICE STATION , KASARGOD**

PETITIONER(S)/ACCUSED:

**SAFEER MUHAMMED AGED 26 YEARS
S/O.S.A.HASSAN, ASNA MANZIL, R.D.NAGAR P.O.
CHOORI, KUDLU VILLAGE, KASARAGOD STATE**

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENT(S):

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

R BY PUBLIC PROSECUTOR SMT. S. HYMA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20-01-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 6236 of 2014 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A1: TRUE COPY OF THE F.I.R IN CRIME NO.52/2007 OF KASARGOD POLICE STATION.

ANNEXURE A2: CERTIFIED COPY OF THE FINAL REPORT IN NO.52/2007 OF KASARGOD POLICE STATION.

ANNEXURE A3: TRUE COPY OF THE DEPOSITION OF PW1.

ANNEXURE A4: TRUE COPY OF THE DEPOSITION OF PW2.

ANNEXURE A5: TRUE COPY OF THE DEPOSITION OF PW3.

ANNEXURE A6: TRUE COPY OF THE DEPOSITION OF PW4.

ANNEXURE A7: TRUE COPY OF THE JUDGMENT DATED 12/6/2014 IN C.C.NO.452/2011 OF CHIEF JUDICIAL MAGISTRATE COURT, KASARGOD.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No.6236 of 2014

Dated this the 20th day of January, 2015.

O R D E R

The petitioner herein is the first accused in C.C No.442/2014 of the Chief Judicial Magistrate Court, Kasargod. The offences involved in this case are under Sections 143, 147, 148, 341, 323, 324, 153A r/w 149 of IPC. The original accused Nos. 2 and 3 faced trial before the trial court, and 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 4 witnesses in the said case including the de facto complainant. None of the material witnesses examined in the case supported the prosecution. In the absence of any evidence or incriminating circumstance, the learned trial judge acquitted the accused Nos. 2 and 3. The case against the petitioner herein was split up and refiled as C.C No.442/2014. 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 7 judgment in C.C 452/2011 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.442/2014 before the Chief Judicial Magistrate court, Kasargod 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.

P.UBAID,
JUDGE