

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 27TH DAY OF NOVEMBER 2015/6TH AGRAHAYANA, 1937

Crl.MC.No. 7466 of 2015

**AGAINST THE JUDGMENT IN SC 19/2012 OF SPECIAL JUDGE FOR
THE TRIAL OF SC/ST(PA)ACT CASES/ SESSIONS JUDGE,
KOZHIKODE DATED 09.10.2014**

CRIME NO. 354/2011 OF THAMARASSERY POLICE STATION, KOZHIKODE

PETITIONER(S)/ACCUSED :-

**VINUMON.P.K., AGED 28 YEARS,
S/O.CHATHUKUTTY (LATE),
PUZHANKUNNUMMAL HOUSE,
WEST KAITHAPPOIL, PUTHUPPADI,
KOZHIKODE.**

BY ADV. SRI.G.ANEESH

RESPONDENT(S)/COMPLAINANT, VICTIM & STATE :-

- 1. YESODA.P.K., AGED 40 YEARS, W/O.MATHEW,
PUZHANKUNNUMMAL HOUSE, AMBALAKANDY,
PUTHUPPADI, KOZHIKODE - 673 625.**
- 2. MATHEW, AGED 46 YEARS,
PUZHANKUNNUMMAL HOUSE, AMBALAKANDY,
PUTHUPPADI, KOZHIKODE - 673 625.**
- 3. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, KOCHI - 682 031.**

**R1 & R2 BY ADV. SRI.P.V.ANOOP
R3 BY SRI.JUSTIN JACOB, PUBLIC PROSECUTOR**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 27-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNEXURE A : FINAL REPORT DATED 29.10.2011 IN CRIME NO.354/2011 OF
THAMARASSERY POLICE STATION SUBMITTED BY DySP DCRB,
VATAKARA.**

**ANNEXURE B : JUDGMENT DATED 9.10.2014 IN S.C.NO.19/2012 ON THE FILE OF
THE SPECIAL JUDGE FOR THE TRIAL OF SC/ST(PA)ACT CASES/
SESSIONS JUDGE, KOZHAIKODE.**

ANNEXURE C : AFFIDAVIT OF CW1.

ANNEXURE D : AFFIDAVIT OF CW2.

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.7466 of 2015

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Dated this the 27th day of November, 2015

ORDER

The petitioner herein is the original accused No.3 in S.C.No.19 of 2012 of the Special Judge for the Trial of SC/ST(PA) Act Cases/Sessions Judge, Kozhikode. The other three accused faced trial before the trial court, and obtained a judgment of acquittal on 9.10.2014. The offences involved in this case are under Sections 452, 323, 324, 326 and 354 read with Section 34 of the Indian Penal Code and Section 3(1)(xi) of SC/ST (POA) Act. The other accused obtained a judgment of acquittal under Section 232 Cr.P.C. when the material witnesses turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. The prosecution examined four 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 trial Judge acquitted the accused Nos.1, 2 and 4. The case against the petitioner was split up and re-filed as S.C.No.575 of 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-B judgment in S.C.No.19 of 2012 shows that all 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 S.C.No.575 of 2014 of the Special Judge for the Trial of SC/ST(PA) Act Cases/Sessions Judge, Kozhikode 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**

rkj

//TRUE COPY//

P.A. TO JUDGE