

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

Crl.MC.No. 6330 of 2014 ()

IN CC 1071/2013 of JUDICIAL FIRST CLASS MAGISTRATE COURT, PAYYANNUR

PETITIONER(S)/DE FACTO COMPLAINANT 1 TO 3 AND ACCUSED NOS.3.:

- 1. THAZHATHE PURAYIL RAJAN AGED 54 YEARS
S/O.RAGHAVAN, PAYYANUR AMSOM, PUNCHAKKAD EAST
KANNUR DISTRICT.**
- 2. MADAKKA BABURAJ AGED 45 YEARS
S/O.KRISHNAN, PAYYANUR AMSOM, PUNCHAKKAD DESOM**
- 3. THALIYIL NARAYANAN
S/O.KUNHIRAMAN, THALIYIL VEEDU, PAYYANUR AMSOM
PUNCHAKKAD DESOM, KANNUR DISTRICT.**
- 4. T.MADHU AGED 40 YEARS
S/O.KUNJIRAMAN, PAYYANUR AMSOM, PUNCHAKKAD DESOM
KANNUR DISTRICT.**

BY ADV. SRI.T.V.JAYAKUMAR NAMBOODIRI

RESPONDENT(S)/DE FACTO COMPLAINANTS:

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

R BY PUBLIC PROSECUTOR SMT. S. HYMA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 18-02-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 6330 of 2014 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE I- TRUE COPY OF THE FINAL REPORT IN C.C.1071/2013 OF JFCM,
PAYYANUR.**

ANNEXURE II- TRUE COPY OF THE AFFIDAVIT BY 1ST PETITIONER.

ANNEXURE III- TRUE COPY OF THE AFFIDAVIT BY 2ND PETITIONER.

ANNEXURE IV- TRUE COPY OF THE AFFIDAVIT BY 3RD PETITIONER.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

**PA TO JUDGE
sab**

P.UBAID, J.

Crl. M.C No.6330 of 2014

Dated this the 18th day of February, 2015.

O R D E R

The fourth petitioner herein is the original third accused in C.C No.857 of 2005 of the Judicial First Class Magistrate Court, Payyannur. The other five accused in the case faced trial before the learned Magistrate, and obtained a judgment of acquittal dated 22.10.2008 in C.C No.857 of 2005, when all the material witnesses turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. The case against the fourth petitioner herein was split up, and refiled as C.C No. 624 of 2008, when he consistently remained absent. Now the case stands refiled as C.C No.1071 of 2013. The petitioners 1 to 3 herein are the first informant, and the other injured persons in the case. The petitioners 1 to 3, and the original third accused jointly seek orders under Section 482 Cr.P.C, quashing the pending prosecution against the third accused on the ground that continuance of prosecution in the present situation will not serve any purpose. The Annexure V judgment in C.C No. 857 of 2005 of the court below shows that none of the 9 witnesses examined in the case supported the

prosecution in any manner. I find that the material witnesses including the petitioners 1 to 3 herein turned hostile in view of an amicable settlement. No doubt, the prosecution cannot improve the case in any manner, if it goes to trial against the petitioner herein. The very substratum of the prosecution case stands lost. Continuance of prosecution will definitely be a waste of time. The petitioners 1 to 3 have also filed affidavit to the effect that the whole dispute stands settled, and they have no grievance or complaint now.

In the result, this petition is allowed. The prosecution against the petitioner herein in C.C No. 1071 of 2013 of the Judicial First Class Magistrate Court Payyannur will stand quashed under Section 482 Cr.P.C.

P.UBAID,
JUDGE

sab