

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

FRIDAY, THE 26TH DAY OF DECEMBER 2014/5TH POUSHA, 1936

Crl.MC.No. 6412 of 2014 ()

AGAINST THE JUDGMENT IN SC 934/2009 of PRINCIPAL SESSIONS COURT,KOLLAM
DATED 10-02-2014

AGAINST THE ORDER/JUDGMENT IN CP 89/2008 of J.M.F.C.-I, PARAVOOR
CRIME NO. 689/2007 OF CHATHANNOOR POLICE STATION , KOLLAM

PETITIONER(S)/3RD ACCUSED:

SAJEEV
S/O.SHARAFUDEEN, VALAVIL VEETIL, THAZHAM VADDAKKU
ITHIKKARA, MEENAD VILLAGE, KOLLAM.

BY ADV. SRI.B.MOHANLAL

RESPONDENT(S)/COMPLAINANT & STATE:

1. THE STATION HOUSE OFFICER
CHATHANNOOR POLICE STATION
KOLLAM DISTRICT THROUGH THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.
2. SMT.MAYA
D/O.RADHIKA, VAYALIL VEEDU, THAZHAM VADAKKU
ITHIKKARA, MEENAD, KOLLAM. PIN-691 024.

R2 BY ADV. SRI.A.SANIL KUMAR
R1 BY PUBLIC PROSECUTOR SMT.LISHA M.G

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
26-12-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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APPENDIX

PETITIONER(S) ' EXHIBITS

- ANNEXURE A1. THE TRUE CERTIFIED COPY OF THE FIR AND FIS IN CRIME NO.689/2007 OF CHATHANNOOR POLICE STATION IN KOLLAM DISTRICT.
- ANNEXURE A2. THE TRUE CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.689/2007 OF CHATHANNOOR POLICE STATION IN KOLLAM DISTRICT PENDING AS S.C NO.934/2009 ON THE FILE OF PRINCIPAL SESSIONS COURT, KOLLAM (SPECIAL COURT)
- ANNEXURE A3. THE TRUE COPY OF THE JUDGMENT DATED 10.02.2014 IN S.C NO.934/2009 OF THE PRINCIPAL SESSIONS COURT, KOLLAM.
- ANNEXURE A4. THE TRUE COPY OF THE AFFIDAVIT FILED BY THE 2ND RESPONDENT DATED 08.11.2014

RESPONDENT(S) ' EXHIBITS NIL

//TRUE COPY//

P.S TO JUDGE

vdv

P.UBAID, J.
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Dated this the 08th Day of December 2015

J U D G M E N T

The petitioner herein is the original third accused in Crime No.689/2007 of the Chathannoor Police Station, involving the offences under Sections 341, 323, 324, 354 read with Section 34 of Indian Penal Code and under Section 3(i)(xi) of Schedule Castes and Schedule Tribes Prevention of Atrocities Act 1989.

2. The original accused Nos. 2 and 4 faced trial before the court of Sessions, Kollam in S.C.No.934/2009 and obtained a judgment of acquittal under Section 232 of the Code of Criminal Procedure when the material witnesses turned hostile to the prosecution in view of an amicable settlement made by the parties out of the court. The original first accused died pending the proceedings, and thus, the charge against him abated. The case against the petitioner herein was split up and re-filed when he remained consistently absent during trial, and later his case was transferred to the long pending register as L.P.C.No.98/2013. He now seeks orders quashing the prosecution as against him on the ground of amicable settlement, and also on the ground that the substratum of the

prosecution stands lost by the acquittal or the others under Section 232 of the Code of Criminal Procedure. The second respondent herein is the de facto complainant who made complaint against the petitioner and others. She has filed an affidavit to the effect that the whole dispute now stands settled amicably out of the court, and she has no grievance or complaint.

3. Annexure.A3 judgment in S.C.No.934/2009 shows that all the material witnesses turned hostile to the prosecution in view of an amicable settlement out of court. In the above situation, continuance of prosecution as against the petitioner herein will not serve any purpose other than wasting the precious time of the trial court. The prosecution cannot in any manner improve the case as against him and the witnesses also cannot be in any manner improve their versions, or help the prosecution at the second round when the case against the petitioner goes to trial.

4. In such a situation, to save the precious time of the trial court, the prosecution as against the petitioner can be quashed.

In the result, this petition is allowed. The prosecution as against the petitioner herein as the original third accused in

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-:3:-

Crime No.689/2007 of the Chathannoor Police Station, which now stands transferred to long pending register before the court of Sessions, Kollam will stand quashed under Section 482 of the Code of Criminal Procedure.

AVS

Sd/-
P.UBAID
JUDGE