

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 11TH DAY OF AUGUST 2015/20TH SRAVANA, 1937

Crl.MC.No. 6437 of 2014 (G)

CC 203/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-V, KOZHIKODE

CRIME NO. 299/2007 OF FAROKE POLICE STATION , KOZHIKODE

PETITIONER(S)/5TH ACCUSED :-

**ABDUL VAHAB, AGED 35 YEARS,
S/O.MUHAMMADALI, CHALAKKATHODI HOUSE,
MELMURI P.O., MALAPPURAM DISTRICT.**

BY ADV. SRI.UNNIKRISHNAN.V.ALAPATT

RESPONDENT(S)/COMPLAINANT/STATE :-

- 1. STATION HOUSE OFFICER,
FAROKE POLICE STATION, KOZHIKODE-673001.**
- 2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**

ADDL.R3 IMPEADED

**ADDL R3 V.T.RAMLA, W/O.SALEEM, AGED 31 YEARS,
MAILAPPARAMBATH THAZHE POTTA HOUSE,
VELLIPARAMBU, 6TH MILE, MEDICAL COLLEGE P.O.,
KOZHIKODE - 678 610.**

**IS IMPEADED AS PER ORDER DATED 08.01.2015 IN CRL.M.A.11626/2014 IN
CRL.M.C.NO.6437 OF 2014.**

R BY SMT.V.H.JASMINE, PUBLIC PROSECUTOR

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 11-08-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

rkj

Crl.MC.No. 6437 of 2014 (G)

APPENDIX

PETITIONER(S)' ANNEXURES :-

ANNEXURE I : TRUE COPY OF THE CHARGE SHEET.

**ANNEXURE II : TRUE COPY OF THE JUDGMENT IN C.C.850/2007 ON THE FILE
OF THE JUDICIAL FIRST CLASS MAGISTRATE V, KOZHIKODE.**

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

rkj

P.UBAID, J.

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Crl.M.C.No.6437 of 2014

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Dated this the 11th day of August, 2015

ORDER

The petitioner herein is the original 5th accused in C.C.No.850 of 2007 of the Judicial First Class Magistrate Court-V, Kozhikode. The offences involved in the prosecution are under Sections 341 and 323 of the Indian Penal Code. Original accused Nos.1 to 4 and 6 faced trial before the learned Magistrate, and obtained a judgment of acquittal on 05.02.2014, when the prosecution failed to procure the presence of two material witnesses, and the other eye witnesses examined by the prosecution turned hostile. The case against the petitioner herein was split up, and it is now pending as C.C.No.203 of 2014. He seeks orders quashing the prosecution against him on the ground that the very substratum of the prosecution case stands lost by the acquittal or others, and that continuance of the prosecution against him will be a sheer waste of time.

2. The Annexure-2 judgment in C.C.No.850 of 2007 shows that the prosecution examined twelve witnesses in the said case, but nobody support of the prosecution. Inspite of repeated

opportunities, the police could not procure the presence of CW1 and CW2, who are the material witnesses. Ultimately, the police reported that their whereabouts are not known. Before this Court also it is submitted by the learned Public Prosecutor on instruction that even now the whereabouts of the CW1 and CW2 are not known. Definite it is, that the prosecution will not be able to procure the presence of those witnesses if the case against the petitioner goes to trial. As regards the other independent witnesses, there is no doubt that they will not support the prosecution, if they are summoned again in the case against the petitioner. I find that continuance of the prosecution against the petitioner in such a circumstance will not serve any purpose, and it will be a sheer waste of time. In such a situation, it is appropriate that the prosecution be quashed, to save the precious time of the trial court.

In the result, this petition is allowed. The prosecution against the petitioner in C.C.No.203 of 2014 of the Judicial First Class Magistrate Court-V, Kozhikode will stand quashed under Section 482 Cr.P.C.

Sd/-
P.UBAID
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE