

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937

CrI.MC.No. 6575 of 2014 ()

**CC.NO. 1016/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-II, KANNUR
CRIME NO. 711/2009 OF VALAPPATANAM POLICE STATION, KANNUR**

PETITIONER/ACCUSED :

**P. PRASAD
S/O.RAJAN, AGED 33 YEARS
PANAYIL HOUSE, AZEEKODE AMSOM
PALLIKUNNUMPURAM, KANNUR DISTRICT.**

BY ADV. SRI.I.V.PRAMOD

RESPONDENT/COMPLAINANT :

**THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

BY PUBLIC PROSECUTOR SMT. P. MAYA

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 20-11-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Mn

...2/-

Crl.MC.No. 6575 of 2014 ()

APPENDIX

PETITIONERS' ANNEXURES :

ANNEXURE A1- A TRUE COPY OF THE FIR NO.711/2009 DATED 13.9.2009.
ANNEXURE A2- A CERTIFIED COPY OF THE FINAL REPORT DATED 23.9.2009.
ANNEXURE A3- A TRUE COPY OF THE JUDGMENT IN CC NO.159/2010 DATED
26.6.2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-II,
KANNUR.

RESPONDENT(S)' ANNEXURES : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

B. KEMAL PASHA, J.

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CRL.M.C. No. 6575 of 2014
.....

Dated this the 20th day of November, 2015

ORDER

The petitioner was absconding when the trial in C.C.159/2010 was going on. Till the stage of Section 313 Cr.P.C. the petitioner was also present. As he has absconded, his case was split up and refiled and the trial against the other accused was proceeded with, which ultimately culminated in an acquittal. The case against the petitioner is presently pending as C.C.No.1016/2013 before the Judicial First Class Magistrate's Court-II, Kannur.

2. On going through Annexure A3 judgment, it seems that CW1, who is the injured in the case, was not examined as he was not available. The other witnesses had not supported the prosecution case. Based on the decision

of the Full Bench of this Court in ***Moosa v. Sub Inspector of Police [2006 (1) KLT 552]***, the petitioner, in the circumstances mentioned above, is not entitled to encash the earlier judgment in respect of the other accused. The petitioner has to face the trial. Being an old matter, the court below shall dispose of the matter expeditiously.

With the above said observations, this Crl.M.C. is disposed of.

Sd/- B.KEMAL PASHA, JUDGE

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[True copy]

P.S. to Judge