

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936

Crl.MC.No. 6806 of 2014

IN CC 745/2002 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT -I,
ATTINGAL

PETITIONERS/A1 & A2 (ORIGINAL A3 & A12):

1. SHYLAJ, AGED 40 YEARS,
S/O. MAITHEENKUNJU, KOPPATHIL VEEDU,
DARSANAVATTOM DESOM, NAGARoor VILLAGE,
THIRUVANANTHAPURAM.
2. SHAJAHAN, AGED 38 YEARS,
S/O. ABDUL MAJEED, AKKARAVILA VEEDU,
NAGARoor VILLAGE,
THIRUVANANTHAPURAM.

BY ADV. SRI.SHAJIN S.HAMEED

RESPONDENT/STATE :

STATE OF KERALA
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
ATTINGAL POLICE STATION
REPRESENTED THROUGH THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA,
ERNAKULAM-682 031.

BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 03-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 6806 of 2014

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE A : COPY OF THE FINAL REPORT IN CRIME NO.457/2000 OF
ATTINGAL POLICE STATION.

ANNEXURE B : CERTIFIED COPY OF THE JUDGMENT DTD.19.8.2006 IN CC
NO.745/2002 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I,
ATTINGAL.

ANNEXURE C : CERTIFIED COPY OF THE JUDGMENT DTD.24.1.2012 IN CC
NO.1716/2006 OF THE JUDICIAL 1ST CLASS MAGISTRATE COURT-I,
ATTINGAL.

ANNEXURE D : CERTIFIED COPY OF THE DEPOSITION OF PW1 IN CC
NO.1716/2006 ON THE FILE OF THE JUDICIAL 1ST CLASS MAGISTRATE
COURT-I, ATTINGAL.

ANNEXURE E : CERTIFIED COPY OF THE DEPOSITION OF PW3 IN CC
NO.1716/2006 ON THE FILE OF THE JUDICIAL 1ST CLASS MAGISTRATE
COURT-I, ATTINGAL.

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

ab

P.UBAID, J.

Crl.M.C No.6806 of 2014

Dated this the 3rd day of February, 2015

O R D E R

The petitioners herein are the original accused Nos.3 and 12 in C.C No.745/2002 of the Judicial First Class Magistrate Court I, Attingal. The offences involved in this case are under Sections 143, 147, 148, 149, 341 and 332 r/w 149 of the Indian Penal Code. The other accused faced trial at two different stages in the trial court in C.C No.745/2002 and C.C No.1716/2006 and obtained judgment of acquittal under Section 248(1) of the Code of Criminal Procedure when nobody supported the prosecution in view of an amicable settlement made by the parties out of court. The prosecution examined five witnesses and marked Exts.P1 to P4 in C.C No.745/2002 and examined four witnesses and marked Exts.P1 and P2 in C.C No.1716/2006. When nobody supported the prosecution, examination of the remaining witnesses was dispensed with, and evidence was closed by the trial court. In the absence of any evidence or incriminating circumstance, the learned Magistrate acquitted all the other accused. The case against the petitioners herein was split up and refiled as C.C No.77/2012 before the same court. The

petitioners now seek orders quashing the prosecution as against them on the ground that the very substratum of the prosecution case is totally lost by acquittal of the others, and continuance of prosecution against them will not serve any purpose. Annexure B and C judgments will show that all the material witnesses examined by the prosecution in the said cases 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 petitioners 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 petitioners in C.C No.77/2012 before the Judicial First Class Magistrate Court I, Attingal will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioners will stand released from prosecution, and the bail bond, if any, executed by them will stand discharged.

**P.UBAID
JUDGE**

ab