

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 23RD DAY OF DECEMBER 2015/2ND POUSHA, 1937

Cr1.MC.No. 8002 of 2015

L.P NO.129/2012 IN C.C .NO.158/2013 OF THE JUDICIAL FIRST
CLASS MAGISTRATE COURT II, PATHANAMTHITTA

CRIME NO. 320/2004 OF KONNI POLICE STATION, PATHANAMTITTA

PETITIONER/ACCUSED:

MANOJ VARGHESE, AGED 45 YEARS,
S/O.VARGHESE, MEPPURATHU HOUSE, LAKOOR,
PRAMADAM VILLAGE, PATHANAMTHITTA.

BY ADVS.SRI.M.T.SURESHKUMAR
SRI.S.SANAL KUMAR
SMT.SMITHA PHILIPOSE

RESPONDENTS/STATE & DEFACTO COMPLAINANT:

1. SUJA MANOJ, AGED 35 YEARS,
D/O.ALIS JOY, PUTHENVEETIL, IKADU,
KOTTAMON, KONNI TALUK,
PATHANAMTHITTA DISTRICT-689645.
2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682031.

R1 BY ADV. SRI.P.R.JAYASANKAR
R2 BY PUBLIC PROSECUTOR SRI.JUSTIN JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 23-12-2015, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

Cr1.MC.No. 8002 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A1: COPY OF THE FIR IN CRIME NO.320 OF 2004 OF
KONNI POLICE STATION

ANNEXURE-A2: COPY OF THE FINAL REPORT DATED 9-10-2014 IN
CRIME NO.320/2004 OF KONNY POLICE STATION

ANNEXURE-A3: COPY OF THE JUDGMENT DATED 24-5-2013 IN
C.C.71 OF 2006 ON THE FILE OF THE JUDICIAL MAGISTRATE OF
FIRST CLASS II, PATHANAMTHITTA.

RESPONDENTS' ANNEXURES

NIL

//TRUE COPY//

P.A TO JUDGE

ab

P.UBAID, J.

Crl.M.C No.8002 of 2015

Dated this the 23rd day of December, 2015

O R D E R

The petitioner herein is the original first accused in C.C No.71/2006 of the Judicial First Class Magistrate Court II, Pathanamthitta. The offence involved in the case is under Section 498A of the Indian Penal Code. The original accused Nos.2 and 3 faced trial before the trial court and obtained a judgment of acquittal under Section 248(1) of the Code of Criminal Procedure when the material witness (de facto complainant) turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. In such a circumstance, examination of the others was dispensed with and evidence was closed by the trial court. In the absence of any evidence or incriminating circumstance, the learned Magistrate acquitted the accused Nos.2 and 3. The case against the petitioner herein was split up and refiled as C.C No.158/2013, and it stands transferred to the register of long pending cases as L.P No.129/2014. The petitioner now seek orders quashing the prosecution as against him on the ground that the very substratum of the prosecution case is totally lost by the acquittal

of the others, and continuance of prosecution against him will not serve any purpose. Annexure A3 judgment in C.C No.71/2006 shows that the material witness examined by the prosecution in the said case 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 petitioner 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 petitioner in C.C No.158/2013 of the Judicial First Class Magistrate Court II, Pathanamthitta (now pending as L.P No.129/2014) will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution, and the bail bond, if any, executed by him will stand discharged.

ab

**Sd/-
P.UBAID
JUDGE**

//True Copy//

P.A to Judge