

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 4TH DAY OF FEBRUARY 2015/15TH MAGHA, 1936

Crl.MC.No. 7352 of 2014

IN L.P NO.10/2011 IN S.C NO.143/2010 OF THE ADDITIONAL SESSIONS
COURT, MANJERI

CRIME NO. 361/2006 OF KOTTAKKAL POLICE STATION, MALAPPURAM

PETITIONER/5TH ACCUSED:

NOUFEL,
S/O.IBRAHIMKUTTY, SEETHINTEPURAKKAL HOUSE,
PUTHIYAKADAPPURAM P.O., TIRUR TALUK,
MALAPPURAM DISTRICT.

BY ADV. SRI.U.K.DEVIDAS

RESPONDENT/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 04-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 7352 of 2014

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE-I: COPY OF THE RELEVANT PAGE OF THE CHARGE SHEET IN
CRIME NO.361/2006 OF KOTTAKKAL POLICE STATION.

ANNEXURE-II: CERTIFIED COPY OF THE JUDGEMENT DATED 23.10.2008 IN
S.C.NO.240/2008 BEFORE THE SESSIONS COURT, MANJERI.

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.7352 of 2014

Dated this the 4th day of February, 2015

O R D E R

The petitioner herein is the original accused No.5 in Crime No.361/2006 of the Kottakkal Police Station. The offence involved in this case is under Section 395 of the Indian Penal Code. The accused Nos.1 to 4 faced trial in S.C No.240/2008 before the Court of Sessions, Manjeri and obtained a judgment of acquittal under Section 232 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 eight witnesses and marked Exts.P1 to P7. 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 trial judge acquitted all the other accused. The case against the petitioner herein was later committed to the Court of Sessions, Manjeri and filed as S.C No.143/2010. It now stands transferred to the register of long pending cases as L.P No.10/2011. The petitioner now seeks 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 II judgment 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 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 herein in S.C No.143/2010 of the Sessions Court, Manjeri (now pending as L.P No.10/2011) 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.

**P.UBAID
JUDGE**

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