

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

Crl.MC.No. 7366 of 2014 ()

AGAINST CC 1619/2013 of J.M.F.C.- I, OTTAPPALAM

PETITIONER(S)/ACCUSED 1:

FAIZAL AGED 40 YEARS
S/O.MUHAMMED MASTER, KUNNIRUKATTIL, MULAYAMKAVU
OTTAPALAM TALUK.

BY ADVS.SRI.K.B.ARUNKUMAR
SRI.RANJIT BABU

RESPONDENT(S)/STATE:

STATE OF KERALA
REPRESENTED THROUGH THE SUB INSPECTOR OF POLICE
CHERPULASSERY POLICE STATION, PALAKKAD DISTRICT
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.

BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
13-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 7366 of 2014

APPENDIX

PETITIONER'S EXHIBITS:

ANNEXURE – I: THE COPY OF THE FIR AND FINAL REPORT FILED
PURSUANT TO CRIME NO.273 OF 2006 OF CHERPULASSERY POLICE STATION

ANNEXURE – 2: THE CERTIFIED COPY OF THE JUDGMENT DATED 28.12.2013
IN C.C. NO.538 OF 2006 ON THE FILE OF THE JUDICIAL FIRST CLASS
MAGISTRATE COURT, OTTAPALAM.

RESPONDENTS EXHIBITS:

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
~~~~~  
**Crl.M.C No.7366 of 2014**  
~~~~~  
Dated this the 13th January, 2015

ORDER

The petitioner herein is the original accused No.1 in Crime No.273 of 2006 of Cherpulassery Police Station, registered under Sections 143, 147, 148, 323,294 (b) read with 149 of Indian Penal Code. Of the seven accused in the crime, five faced prosecution before the learned Judicial First Class Magistrate Court, Ottapalam in C.C No.538 of 2006 and obtained a judgment of acquittal on 28.12.2013, when the material witnesses including the first informant, who sustained injuries in the alleged incident, turned hostile to the prosecution. The case against the accused Nos.3 and 7 was split up and refiled as C.C No.1619 of 2013 when they consistently remained absent. 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 will not serve any purpose. Annexure-2 judgment in C.C No.538 of 2006

shows that the prosecution examined the material witnesses in the case, including the first informant and marked Ext.P1, but nobody supported the prosecution. When the first informant and the others turned hostile, the learned Assistant Public Prosecutor gave up the remaining witnesses, and the learned Magistrate closed the evidence finding that no purpose will be served in proceeding with the case further. Annexure 2 judgment shows that the first informant and others turned hostile during trial in view of an amicable settlement made by the parties. It is definite that, in such a situation, continuance of prosecution will not serve any purpose, other than wasting the precious time of the court. No doubt, the prosecution cannot in any manner improve the case as against the petitioner, and the material witnesses, who turned hostile, will not support the prosecution when the case against the petitioner comes for trial, in view of the amicable settlement made out of court. In such a situation, the prosecution can well be quashed.

In the result, this petition is allowed. The prosecution against the petitioner herein in C.C No.1619 of 2013 before

the Judicial First Class Magistrate Court, Ottapalam 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.

**Sd/-
P.UBAID
JUDGE**

ma

/True copy/

P.S to Judge