IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

THURSDAY, THE 31ST JANUARY 2008 / 11TH MAGHA 1929

Crl.MC.No. 347 of 2008()

CC.349/2007 of JUDL.MAGISTRATE OF FIRST CLASS COURT, ALATHUR

....

PETITIONER: 5TH ACCUSED

    MOOSAKUTTY, AGED 28 YEARS,
    S/O. ABDUL RAZAK, KUNNATH VEEDU, ADIPARAMBA.

  BY ADV. SRI.S.M.PREM
      SMT.K.P.SANTHI
      SRI.S.S.HUSSAIN
      SRI.P.K.NIJOY

RESPONDENTS: COMPLAINANT

    STATE OF KERALA, REPRESENTED BY
    PUBLIC PROSECUTOR.

   BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 31/01/2008,   THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

ORDER

Petitioner who was the 5th accused in Crime No. 128 of 2002 of Nenmara Police Station for offences punishable under Sections 143, 147 and 353 read with Section 149 I.P.C. and whose case was split up from C.C. No. 58 of 2003 on the file of the Judl. First Class Magistrate, Alathur and re-filed as C.C. 349 of 2007 and against whom non-bailable warrants of arrest are pending,   seeks to quash the proceedings in C.C. No. 349 of 2007 on the ground that co-accused in the case were acquitted after trial as per Annexure I judgment dated 26-07-2007 in C.C. 58 of 2003.

2.   In the light of the decision of the Full Bench in **Moosa v. Sub Inspector of Police - 2006 (1) KLT 552,** this Court cannot look into Annexure - I Judgment so as to quash the proceedings against the petitioner without a trial. Hence, the proper course the petitioner would be plead for a discharge.

Accordingly, this Crl.M.C. is disposed of permitting the petitioner to surrender   before the Magistrate and to file a

petition for regular bail within two weeks from today.   In case the petitioner complies with this condition, the learned Magistrate shall release the petitioner on bail on appropriate conditions and   shall permit the petitioner to plead for a discharge in the light of the fact that the co-accused in the case have been acquitted after trial.

                                        Sd/- V. RAMKUMAR,
                                                (JUDGE)

ani.   /true copy/