

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 29TH DAY OF DECEMBER 2015/8TH POUSHA, 1937

Cr1.MC.No. 8006 of 2015 ()

CC 514/2012 of J.M.F.C. - I, NORTH PARAVUR

PETITIONER(S)/ACCUSED NO.3:

SOBAN, AGED 31 YEARS,
S/O.ANCHALOSE, PADAMATTUMMAL (H) ,
CHETTIKAD BHAGAM, MOOTHAKUNNAM.

BY ADV. SRI.N.K.MOHANLAL

RESPONDENT(S)/COMPLAINANT NO.1:

1.SUB INSPECTOR OF POLICE,
VADAKKEKARA POLICE STATION,
NORTH PARAVUR-680471.

2.STATE OF KERALA REPRESENTED
BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM-31.

BY PUBLIC PROSECUTOR SMT.MADHUBEN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
29-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ami/

P.UBAID, J.

Crl.M.C.No.8006 of 2015

Dated this the 29th day of December, 2015.

O R D E R

The petitioner herein is the 3rd accused in C.C.No.832/2007 of Judicial First Class Magistrate Court, N.Paravur. The offences involved in the case are under Sections 153 and 427 r/w 34 of IPC. The original accused Nos.1, 2 and 4 faced trial before the trial court and obtained a judgment of acquittal under Section 255(1) of Cr.P.C. when all the material witnesses including the de facto complainant turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. The prosecution examined four witnesses in the said case including de facto complainant. None of the material witnesses examined in the case supported the prosecution. 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.1, 2 and 4. The case against the petitioner herein was split up and refiled as C.C.No.514/2012. 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 - A2 judgment in C.C.No.832/07 shows that all the material witnesses 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.514/2012 of Judicial First

Class Magistrate Court, N.Paravur, 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.

ami/

//True copy//

P.A. to Judge