

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY ,THE 28TH DAY OF FEBRUARY 2019 / 9TH PHALGUNA, 1940

Cr1.MC.No. 1494 of 2019

AGAINST THE ORDER/JUDGMENT IN CC 1367/2017 of JUDICIAL MAGISTRATE  
OF FIRST CLASS ,PAYYANNUR

CRIME NO. 7/2013 OF Payangadi Police Station , Kannur

PETITIONER:

MEHAROOOF  
AGED 35 YEARS  
S/O. MAHAMOOD,THATTANKANDI (H) , BEACH ROAD,  
PUTHIYANGADI, MADAYI AMSOM, KANNUR DISTRICT,PIN-670  
304

BY ADV. SRI.ZUBAIR PULIKKOOL

RESPONDENTS:

1 MAHAROOOF.T.P  
S/O. MUHAMMED, THALAKKAN PARAKK (H) , BEACH ROAD,  
PUTHIYANGADI, MADAYI AMSOM, KANNUR DISTRICT,PIN-670  
304

2 STATE OF KERALA,  
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF  
KERALA, ERNAKULAM, PIN-682 031

BY ADV. SRI.P.S.BINU  
SRI.C.S.HRITHWIK, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON  
28.02.2019, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**ORDER**

The petitioner was the 2<sup>nd</sup> accused in C.C.No.265/2013 on the files of the court below. The offences alleged are punishable under Sections 143, 147, 148, 341 and 324 read with Section 149 IPC.

2. Annexure II is the judgment of the trial court in C.C.No.265/2013, which would show that all the accused, who faced the trial had been acquitted by the trial court under Section 248(1) Cr.P.C. and the case against the petitioner was split up and re-filed as C.C.1367/2017. Presently, the case against the petitioner is pending as C.C.1367/2017. It appears from Annexure II that, the substratum of the prosecution case had been lost in the trial of the other accused. Annexure II would show that only one of the injured persons could be examined before the court as the presence of the other injured person could not be procured before the court. It appears from

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Annexure II that the injured person, who was examined before the court, could not identify any of the assailants. The other injured person is the 1<sup>st</sup> respondent. The 1<sup>st</sup> respondent filed affidavit stating that the matter has been settled and hence he has no further grievance against the petitioner. This being the situation, no purpose will be served even if the prosecution against the petitioner is permitted to be continued.

In the said circumstances, I am inclined to quash the final report and further proceedings against the petitioner in the above said case, in exercise of the inherent power under Section 482 Cr.P.C., to meet the ends of justice. It is ordered accordingly.

In the result, this Crl.M.C. stands allowed.

**Sd/-**

**B.SUDHEENDRA KUMAR**

**JUDGE**

Nkr/29.02.2019

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## **APPENDIX**

### **PETITIONER'S/S EXHIBITS:**

ANNEXURE-I	CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.7/2013 OF PAZHAYANGADI POLICE STATION
ANNEXURE-II	COPY OF THE JUDGMENT OF JFCM COURT, PAYYANNUR IN C.C.NO.265/2013
ANNEXURE-III	SWORN AFFIDAVIT OF 1ST RESPONDENT

### **RESPONDENTS EXHIBITS: NIL**

//True Copy//

P.A. to Judge