

(2010) 12 KL CK 0070
In the High Court Of Kerala
Case No : Criminal M.C. No. 4721 of 2010

C.P. Sainudeen and Noushad

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 02-12-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 143, 147

Citation : (2010) 12 KL CK 0070

Hon'ble Judges : M. Sasidharan Nambiar, J

Bench : Single Bench

Advocate : P.M. Habeeb, for the Appellant; No Appearance, for the Respondent

Judgement

M. Sasidharan Nambiar, J.—Petitioners were accused 2 and 4 in C.C. No. 339/2004 on the file of Judicial First Class Magistrate's Court, Payyannur. As third accused alone appeared, the case against the other accused was split up and re-filed as C.C. No. 25/2007. Subsequently, when first accused appeared, the case against original accused 2 and 4, Petitioners herein, was split up and re-filed as C.C. No. 624/2009. First accused was tried and by Annexure-A1 judgment, he was acquitted. Petitioner did not appear before the Magistrate. This petition is filed u/s 482 of Code of Criminal Procedure to quash the proceedings pending against them contending that in view of the order of acquittal of accused 1 and 3, it is not in the interest of justice to continue the prosecution.

2. Learned Counsel appearing for the Petitioners and learned Public prosecutor were heard.

3. As held by the Full Bench of this Court in Moosa Vs. Sub Inspector of Police, , based on the judgment acquitting a co-accused, an absconding accused is not entitled to get the case against him quashed. Therefore, for the reason that accused 1 and 3 were acquitted after trial, Petitioners, who were the absconding accused, are not entitled to get the case against them quashed.

4. Learned Counsel appearing for the Petitioners then submitted that entire disputes with the injured were settled amicably and a direction may be issued to the learned Magistrate to permit compounding of the offences, in the absence of the Petitioners, as the offences are compoundable.

5. Apart from the offences under Sections 143 and 147 of Indian Penal Code, which are not compoundable, the other offences are compoundable. In view of the order of acquittal of the two accused, an offence u/s 143 of Indian Penal Code will not be attracted. In such circumstances, if the persons, who are competent to compound the offences, approach the learned Magistrate seeking permission to compound the offences, Magistrate shall not insist for the presence of the accused, to grant permission to compound the offences.

6. Petition is disposed.