

**Sadasivan Pillai Vs. State of Kerala**

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**SooperKanoon Citation :** [sooperkanoon.com/1165893](http://sooperkanoon.com/1165893)

**Court :** Kerala

**Decided On :** Oct-09-2014

**Judge :** Honourable Mr. Justice P.Ubaid

**Appellant :** Sadasivan Pillai

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE P.UBAID THURSDAY, THE 9<sup>TH</sup> DAY OF OCTOBER 2014 17<sup>TH</sup> ASWINA, 1936 CrI.MC.No. 3799 of 2013 () ----- IN CC1612013 of JUDICIAL FIRST CLASS MAGISTRATE COURT , PARAVOOR CRIME NO. 182/2004 OF PARIPPALLY POLICE STATION , KOLLAM PETITIONER(S)/4<sup>TH</sup> ACCUSED: ----- SADASIVAN PILLAI S/O.RAGHAVAN PILLAI, PUTHUVEEDU, KATTUPURAM VILLAVOORKONNAM P.O., KALLUVATHAKKAL, KOLLAM DISTRICT. BY ADVS.SRI.V.A.AJIVASS SMT.M.MANJU (KADAKKAL) RESPONDENT(S)/RESPONDENT: ----- STATE OF KERALA REPRESENTED BY THE SUB INSPECTOR OF POLICE PARIPALLY POLICE STATION KOLLAM DISTRICT THROUGH THE PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM. R BY PUBLIC PROSECUTOR SMT. P. MAYA THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 09/10-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CrI.MC.No. 3799 of 2013 ()

----- APPENDIX PETITIONER(S)' EXHIBITS  
----- ANNEXURE-I: THE CERTIFIED COPY OF THE  
FINAL REPORT IN CRIME NO.182/2004 OF PARIPPALLY POLICE STATION IN  
KOLLAM DISTRICT PENDING AS C.C.NO.161/13 BEFORE THE HONOURABLE  
JUDICIAL FIRST CLASS MAGISTRATE COURT, PARAVOOR, KOLLAM.  
ANNEXURE-II: THE CERTIFIED COPY OF THE JUDGEMENT IN  
C.C.NO.423/2007 IN HONOURABLE JUDICIAL FIRST CLASS MAGISTRATE  
COURT, PARAVOOR, KOLLAM. RESPONDENT(S)' EXHIBITS: NIL  
----- /TRUE COPY/ PATO JUDGE sab P.UBAID, J.

----- Crl. M.C No.3799 of 2013 -----  
Dated this the 9th day of October, 2014.

## ORDER

The petitioner herein is the fourth accused in crime No.132/2004 of the Parippally police station in Kollam District. The said crime was suomoto registered by the Circle Inspector of Police, Paravoor under Sections 3 and 4 of the Explosive Substances Act and under Section 286 IPC. After investigation, the police submitted final report under Section 286 IPC and under Section 9(B)(1)(b) of the Explosives Act before the Judicial First Class Magistrate Court, Paravoor. The crime was suomoto registered by the Circle Inspector on the basis of a search and seizure made by him, during which the accused Numbers 1 to 3 were found carrying quarrying operations without license. During investigation, this petitioner was arraigned as the fourth accused on the allegation that the said unauthorized quarry was conducted by the first accused, jointly with the petitioner herein.

2. The accused Numbers 1 to 3 faced trial before the learned Magistrate in C.C No.423/2007. They pleaded not guilty to the accusations made in the final report, and the prosecution accordingly examined all the material witnesses. But during trial none of the material witnesses supported the prosecution. In such a situation the learned Crl. M.C No.3799 of 2013 2 Magistrate acquitted the accused Numbers 1 to 3 under Section 255 (1) Cr.P.C by judgment dated 2.3.2013. Now the fourth accused is before this court under Section 482 Cr.P.C to quash the prosecution against him in the split up case C.C No.161/2013 before the learned

Magistrate, on the ground that continuance of prosecution against him will not serve any purpose, and that it will be a sheer waste of time. Yet another ground raised by him is that there is absolutely no material to connect him with the alleged crime.

3. On a perusal of the materials including the first information report, the final report, and the judgment in C.C No.423/2007 produced as Annexure II in this proceeding I find that the prosecution records do not contain any definite material, or evidence to incriminate the petitioner herein as accused. There is absolutely nothing to show that this petitioner was found anywhere near the quarry, or that the Circle Inspector could seize any document to show the involvement of the petitioner in any manner as the partner of the first accused. It appears that on the basis of some unauthentic information, the Circle Inspector arraigned the petitioner herein as the fourth accused in the crime. Anyway, all the three accused found at the quarry by the Sub Inspector at the time of search and seizure, stand now acquitted on full trial. I find that continuance of the prosecution as against the petitioner herein will not serve any purpose other than wasting the precious time of CrI. M.C No.3799 of 2013 3 the trial court, when the prosecution does not have any definite or authentic material to prove his complicity or involvement in the alleged crime. I find that in the interest of justice the prosecution as against him will have to be quashed. In the result, this petition is allowed. The prosecution as against the petitioner herein in C.C16113 of the Judicial First Class Magistrate Court, Paravoor (South) will stand quashed under Section 482 Cr.P.C, and the petitioner will stand released from prosecution. The bail bond, if any, executed by the petitioner will stand discharged. P.UBAID, JUDGE sab

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