

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE MR.JUSTICE V.G.ARUN

Monday,the 15th day of March 2021/24th Phalguna, 1942

Crl.MC No.660/2021

CC No.249/2014 of the JUDICIAL MAGISTRATE OF FIRST CLASS -II, SULTHANBATHERY

Offence No. OR. NO.23/2003 OF Chedalath Forest Range Office , Wayanad

PETITIONER/3rd ACCUSED

SHELLY JOSEPH,AGED 41 YEARS

S/O JOSEPH, MARUTHOLIL, KOLERI.PO.

RESPONDENT/STATE

STATE OF KERALA

**REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM.**

This CRL.M.C. coming on for admission upon perusing the petition and upon hearing the arguments of M/S. RAJESH VIJAYAN, PARVATHY PRADEEP and SIKHA S.NAIR, Advocates for the petitioner and the PUBLIC PROSECUTOR for the respondent, the court passed the following:

MLG/16/3/21

(p.t.o)

V.G.ARUN, J.

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Crl.M.C. No. 660 of 2021

Dated this the 15th day of March, 2021

For information purpose only
ORDER

Petitioner is the third accused in O.R.No.23 OF 2003 of Chedleth Range, alleging commission of offence punishable under Sections 27(1), (e), (iii)(iv), 27(1)(d) of the Kerala Forest Act, 1961. The prayer in this Crl.M.C is to quash the proceedings against the petitioner primarily on the ground that the other accused have been acquitted after trial as per Annexure A3 judgment. Since the petitioner was not available during trial of C.C.No.233 of 2011 of the Judicial First Class Magistrate Court-II, Sulthan Bathery, the case against them was split up and re-filed as C.C.No.249 of 2014 while the other accused were acquitted.

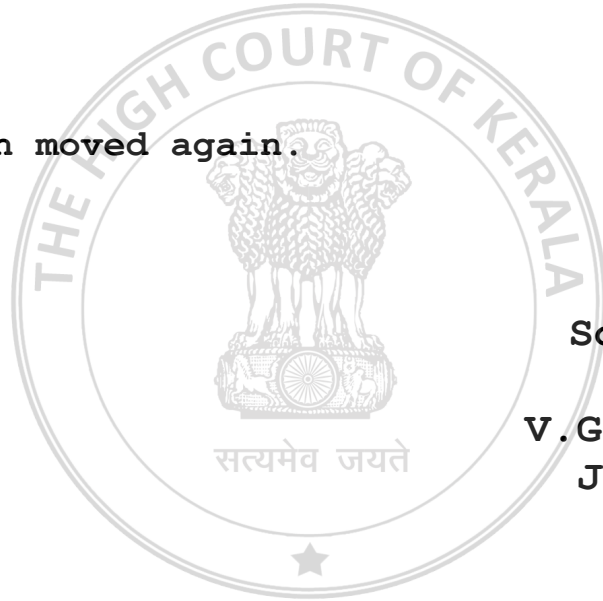
2. Learned Counsel for the petitioner

submits that the other accused having been acquitted for complete lack of evidence, no purpose will be served by compelling the petitioner to undergo the trauma of trial. It is the consistent view of this Court that the benefit of acquittal rendered in the case of the co-accused, who faced trial, could be extended to an absconding accused only on submitting to the process of law by surrendering before the jurisdictional court.

Therefore, as an interim measure, the petitioner is directed to surrender before the Judicial First Class Magistrate Court-II, Sulthan Bathery in C.C.No.249 of 2014 and is permitted to move an application for bail, with advance notice to the Public Prosecutor concerned. In such event, the learned Magistrate shall consider the application for bail on the date of surrender and pass appropriate orders thereon on the same day. While effecting such consideration, the learned

Magistrate shall bear in mind the fact that the other accused have been acquitted on merits. In order to provide an opportunity for the petitioner to surrender and move the bail application, the non-bailable warrant pending against him shall be kept in abeyance for two weeks.

Post when moved again.



Sd/-

V.G.ARUN
JUDGE

Sc1/15.03.2021