

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 19361

Crl.MC.No. 27 of 2015 ()

IN ST 525/2009 of CHIEF JUDL.MAGISTRATE, ERNAKULAM

PETITIONER(S):

**M.A.MANSOOR AGED 45 YEARS
S/O LATE ABDULLA KUTTY
LICENSEE, M/S HOTEL SOUTH PLAZA
39/1308 A, WARE HOUSE ROAD, COCHIN – 16
RESIDING AT MUTHIRAKAYIL (H)
CHULLOOR P.O
VALAPAD (VIA) THRISSUR**

**BY ADVS.SRI.SHAJI P.CHALY
SMT.C.S.SINDHU KRISHNAH**

RESPONDENT(S):

**1.STATE OF KERALA
REP. BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM**

**2. THE DISTRICT FOOD INSPECTOR, OFFICE OF THE DISTRICT FOOD
INSPECTOR, EROOR SOUTH, ERNAKULAM**

**3. THE FOOD INSPECTOR
CORPORATION OF COCHIN, ERNAKULAM**

**4. ABDUL RAZAK
MANAGER, M/S HOTEL SOUTH PLAZA
39/1308 A, WARE HOUSE ROAD, COCHIN – 16
RESIDING AT MUTHIRAKAYIL (H)
CHULLOOR P.O VALAPAD (VIA) THRISSUR**

R BY PUBLIC PROSECUTOR SMT. P. MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
06-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONERS ANNEXURES:

**ANNEXURE A1: TRUE COPY OF THE PROCEEDINGS IN S.T 525/2009 OF
LEARNED CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM**

**ANNEXURE A2: TRUE COPY OF THE FORM III REPORTS ALONG WITH THE
COVERING LETTER OF THE 2ND RESPONDENT**

ANNEXURE A3: TRUE COPY OF THE PETITION DATED 10.03.2009

**ANNEXURE A4: TRUE COPY OF THE PETITION OFFERRED DATED 11.12.2014
SEEKING TO RECALL THE WARRANT ISSUED**

RESPONDENTS ANNEXURES:

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 27 of 2015

Dated this the 6th day of January, 2015.

ORDER

The petitioner herein is the first accused in S.T 525/2009 of the Judicial First Class Magistrate Court, Ernakulam. It is a prosecution under the Prevention of Food Adulteration Act, 1954. On the application made by the petitioner, the second sample was forwarded for an analysis to the Central Food Laboratory, and the report of analysis is yet to be received. Pending the proceedings the petitioner herein happened to be absent, and the learned Magistrate issued warrant of arrest against him. The petitioner now seeks orders quashing the said proceeding issuing warrant of arrest, on the ground that such a proceeding is not possible in view of Section 13 (2D) of the PFA Act. On a perusal of the extract of the proceedings produced by the petitioner I find that report of analysis from the Central Food Laboratory is yet to be received. Sub Section 2D of Section 13 of the PFA Act provides that until the receipt of the certificate of the result of analysis from the Director of Central Food Laboratory the court shall not continue with the proceedings pending before it in relation to the prosecution. In view of a such

provision, the learned Magistrate could not have issued warrant of arrest against the petitioner. I find that the said proceeding issuing warrant of arrest is liable to be quashed.

In the result, this petition is allowed. The impugned proceeding of the court below dated 4.11.2014 issuing warrant of arrest against the petitioner will stand quashed under Section 482 Cr.P.C. The court below can proceed further in the matter on receipt of the report of analysis from the Central Food Laboratory.

P.UBAID,
JUDGE

sab