

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 28TH DAY OF OCTOBER 2015/6TH KARTHIKA, 1937

Crl.MC.No. 313 of 2015 ()

CC.NO. 4641/2011 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-II, ERNAKULAM

PETITIONER/ACCUSED :

**SHEELA,
W/O.JOHNY, POOTHULLIL HOUSE,
THRIKKANARVATTOM KARA
COMBARA, ERNAKULAM.**

**BY ADVS.SRI.DINESH R. SHENOY
SRI.SANIL JOSE**

RESPONDENT/COMPLAINANT :

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM,
PIN-682 031.**

BY PUBLIC PROSECUTOR SMT. P. MAYA

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 28-10-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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...2/-

Crl.MC.No. 313 of 2015 ()

APPENDIX

PETITIONERS' ANNEXURES :

**ANNEXURE A1 : TRUE COPY OF THE CHARGE SHEET FILED IN
 C.C.NO.4641/2011 (FIR NO.3173/2011, CENTRAL POLICE
 STATION), JUDICIAL FIRST CLASS MAGISTRATE COURT-II,
 ERNAKULAM.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

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B. KEMAL PASHA, J.

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CRL.M.C. No. 313 of 2015
.....

Dated this the 28th day of October, 2015

ORDER

Petitioner is the accused in C.C.No.4641/2011 of the Judicial First Class Magistrate's Court-II, Ernakulam, which has arisen from Crime No.3173/2011 of the Central Police Station, Ernakulam, registered for the offences punishable under clause 3 of the LPG Regulation of Supply and Distribution Order, 2000(*hereinafter referred to as 'Order 2000'*) and Sections 3, 6 and 7 of the Essential Commodities Act. The investigation has been conducted and final report has been laid by the Sub Inspector of Police, Central Police Station, Ernakulam. The proceedings against the petitioner are sought to be quashed.

2. Heard the learned counsel for the petitioner and

the learned Public Prosecutor.

3. It seems that as per clause 13(1) of Order 2000, *“any Officer of the Central or the State Government not below the rank of Inspector duly authorised by a general or a special order, by the Central Government or the State Government, as the case may be or any officer of a Government Oil Company not below the rank of Sales Officer, authorised by the Central Government, can conduct a search and seizure.”*

4. Here, in this case, the search and seizure was conducted by the Sub Inspector of Police, who is admittedly not empowered or authorised under clause 13(1) of Order 2000. Matters being so, the proceedings against the petitioner are not legally sustainable and therefore, Annexure A1 Final Report and all further proceedings based on it in C.C.4641/2011 of the Judicial First Class Magistrate's Court-II, Ernakulam, are liable to be quashed.

In the result, this Crl.M.C. is allowed and Annexure A1

Final Report and all further proceedings based on it in C.C.4641/2011 of the Judicial First Class Magistrate's Court-II, Ernakulam are hereby quashed.

Sd/- B.KEMAL PASHA, JUDGE

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[True copy]

P.S. to Judge