

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 3RD DAY OF NOVEMBER 2015/12TH KARTHIKA, 1937

Crl.MC.No. 584 of 2015 ()

CC. NO.151/2013 OF CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM.

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PETITIONER/ACCUSED NO.1:

**VIMAL POULOSE, AGED 26 YEARS,
S/O. POULOSE, VELAMMATTATHIL HOUSE,
ONNAMMILE, MULAVOOR POST, PAYYIPRA VILLAGE,
MUVATTUPUZHA.**

BY ADV. SRI.IEANS.C.CHAMAKKALA.

RESPONDENT(S):

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

BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE.

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 03-11-2015, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

ANNEXURE A1 - CERTIFIED COPY OF THE F.I.R.

ANNEXURE A2 - CERTIFIED COPY OF THE CHARGE SHEET.

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

B.KEMAL PASHA, J.

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Crl.M.C. No. 584 of 2015

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Dated this the 3rd day of November, 2015

ORDER

The petitioner is the 1st accused in C.C.No.151/2013 of the Chief Judicial Magistrate's Court, Ernakulam, which has arisen from Crime No.96/2013 of the Central Police Station, Ernakulam, for the offences punishable under Sections 3, 4, 5 & 7 of the Immoral Traffic (Prevention) Act, 1956 (for short 'the Act').

2. According to the petitioner, the offences alleged against him are not legally sustainable in view of the fact that the search was conducted in contravention of the provisions of Section 15 of the Act.

3. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

4. The learned Public Prosecutor has pointed out that the search was conducted by the Sub Inspector of Police, Central Police Station, Ernakulam, whereas the further

investigation was conducted and final report was filed by the Circle Inspector of Police, Central Police Station, Ernakulam.

5. The learned counsel for the petitioner has pointed out that as per Section 15(1) of the Act, the search ought to have been conducted by the Special Police Officer or the Trafficking Police Officer as the case may be.

6. As per Section 13(2) of the Act, the Special Police Officer shall not be below the rank of an Inspector of Police. Matters being so, the person, who conducted search in the case, was not a Special Police Officer within the meaning of Section 13(2) as well as Section 15(1) of the Act. In such case, the search itself was illegal and the result of the search cannot be used as an evidence for a successful prosecution of the offences under the said Act. Matters being so, the proceedings in C.C.No.151/2013 of the Chief Judicial Magistrate's Court, Ernakulam based on Annexure -A2 final report as against the petitioner herein are liable to

be quashed.

In the result, this Crl.M.C is allowed and all further proceedings in C.C.No.151/2013 of the Chief Judicial Magistrate's Court, Ernakulam based on Annexure -A2 final report as against the petitioner herein, are hereby quashed.

Sd/-
B.KEMAL PASHA, JUDGE

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