

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

Crl.MC.No. 654 of 2015 ()

CRIME NO. 1176/2014 OF PALODE POLICE STATION , THIRUVANANDAPURAM

PETITIONER(S)/ACCUSED:

1. RAJEEV AGED 55 YEARS
S/O.THAMPI, JISHNU VIHAR, ALAMPARA
NANNIYODE, PALODE VILLAGE
THIRUVANANTHAPURAM DISTRICT.
2. SAJU, AGED 33 YEARS
S/O.RAGHAVAN, S.R.BHAVAN, ALAMPARA
NANNIYODE, PALODE VILLAGE, THIRUVANANTHAPURAM DISTICT.
3. RAJESH AGED 32 YEARS
S/O.BABU, KAVUVILA VEEDU, NANNIYODE
PALODE VILLAGE, THIRUVANANTHAPURAM DISTRICT.
4. JAYAKUMAR, AGED 48 YEARS
S/O.GOVINDAN, KARTHIKA, ENIYOTTUKONAM
ANADU VILLAGE, THIRUVANANTHAPURAM DISTRICT.
5. SYAMALA, AGED 56 YEARS
D/O.RAJAMMA, NARIKKALIL VEEDU, ALAMPARA
NANNIYODE, PALODE VILLAGE
THIRUVANANTHAPURAM DISTRICT.
6. SULOCHANA, AGED 65 YEARS
D/O.MADHAVI, KUNNUMPURATH VEEDU, ALAMPARA
NANNIYODE, PALODE VILLAGE
THIRUVANANTHAPURAM DISTRICT.
7. LALITHA, AGED 61 YEARS
D/O.NEELA, CHARUVILA VEEDU, OOLANKUNNU
ALAMPARA, NANNIYODE, PALODE VILLAGE
THIRUVANANTHAPURAM DISTRICT.
8. VIMALA, AGED 55 YEARS
D/O.PRABHAVATHI, RAHUL BHAVAN, NARIKKALLU
ALAMPARA, NANNIYODE, PALODE VILLAGE
THIRUVANANTHAPURAM DISTRICT.

9. THULASI BHAI, AGED 49 YEARS
D/O.BHASURANGI, OOLANKUNNU VEEDU, ALAMPARA
NANNIYODE, PALODE VILLAGE
THIRUVANANTHAPURAM DISTRICT.
10. ANITHA, D/O.BHARATHI, AGED 40 YEARS
CHARUVILA VEEDU, OOLANKUNNU, ALAMPARA
NANNIYODE, PALODE VILLAGE
THIRUVANANTHAPURAM DISTRICT.
11. INDIRA, D/O.NEELA, AGED 59 YEARS
CHARUVILA VEEDU, OOLANKUNNU, ALAMPARA
NANNIYODE, PALODE VILLAGE
THIRUVANANTHAPURAM DISTRICT.
12. VILASINI, D/O.SARASAMMA, AGED 50 YEARS
KOCHUKARIKKAKATHU VEEDU, ALAMPARA, NANNIYODE
PALODE VILLAGE, THIRUVANANTHAPURAM DISTRICT.
13. OMANA, AGED 53 YEARS
D/O.NEELA, CHARUVILA VEEDU, OOLANKUNNU
ALAMPARA, NANNIYODE, PALODE VILLAGE
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENT(S)/STATE & COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM 682 031.
2. SUB INSPECTOR OF POLICE,
PALODE POLICE STATION
THIRUVANANTHAPURAM DISTRICT 695 004.
3. THE ADDITIONAL DISTRICT MAGISTRATE,
COLLECTORATE, THIRUVANANTHAPURAM - 695 001.

R1-R3 BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
11-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 654 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A1: TRUE COPY OF THE F.I.R IN CRIME NO.1176/2014 OF PALODE
POLICE STATION

ANNEXURE A2: TRUE COPY OF THE LICENSE BEARING NO.84/LE5/TEMP/2014
DATED 15/10/2014

ANNEXURE A3: TRUE COPY OF THE REGISTRATION UNDER THE KVAT ACT.

ANNEXURE A4: TRUE COPY OF THE INSPECTION REPORT OF THE COMMERCIAL
TAX OFFICER, NEDUMANGAD DATED 13/10/2014.

ANNEXURE A5: TRUE COPY OF THE PROPERTY LIST IN CRIME NO.1176/2014
DATED 15/10/2014.

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**Crl.M.C No.654 of 2014**  
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Dated this the 11th February, 2015

ORDER

The petitioners herein seek orders quashing the F.I.R and further proceedings in Crime No.1176 of 2014 of the Palode Police Station registered under Sections 286 read with 34 I.P.C and 9 (B) (1) (b) of the Explosives Act. The police case is that on 15.10.2014, the petitioner herein and his employees were found possessing and dealing with some explosives without licence. The petitioners 2 to 13 are the employees of the 1st petitioner. The 1st petitioner contends that he has already obtained a licence under the Explosives Act, valid from 15.10.2014 to 30.10.2014. The petitioners have produced a copy of the licence as Annexure-A2. In view of the licence, the Station House Officer was directed to file statement as to how the crime happened to be registered under the Explosives Act. The police has no explanation for this. The police will practically admit that the petitioner had a valid licence, the copy of which is produced as Annexure A2. The period of this

licence is from 15.10.2014 to 30.10.2014. Of course, it is a temporary licence, but it is a licence properly issued under the Explosives Act and the Rules thereunder. In the present situation, the crime cannot proceed against the petitioners under the Explosives Act. As regards the allegation under Section 286 I.P.C, I find that the allegations made by the police in the F.I.R are not sufficient to attract Section 286 I.P.C. For such a prosecution under Section 286 I.P.C, there must be a definite allegation with the support of materials that the accused was found dealing with some explosive substance rashly or negligently so as to endanger human life. The F.I. R does not explain how the accused dealt with explosives or how it would endanger human life. Just a causal statement will not constitute the offence under Section 286 I.P.C. The F.I.R does not contain the materials or ingredients to constitute the offence under Section 286 I.P.C except a casual statement. It appears that the F.I.R is mainly under the Explosives Act. But in view of the explosives licence produced by the 1st petitioner, the prosecution cannot be sustained. I find that the F.I.R is

liable to be quashed.

In the result, this petition is allowed. The F.I.R and further proceedings in Crime No.1176 of 2014 of Palode Police Station will stand quashed under Section 482 of the Code of Criminal Procedure.

**Sd/-
P.UBAID
JUDGE**

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/True copy

P.S to Judge