

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 25TH DAY OF SEPTEMBER 2015/3RD ASWINA, 1937

Crl.MC.No. 981 of 2015

ST.NO.148/2008 OF JUDICIAL FIRST CLASS MAGISTRATE COURT -II, ATTINGAL.
.....

PETITIONER/3RD ACCUSED:

**ABDUL KHADER, S/O.AHAMMED KUNJU,
AGED 87 YEARS, SAFIYARA MANZIL,
PONGANADU, KILIMANOOR VILLAGE,
THIRUVANANTHAPURAM DISTRICT.**

BY ADV. SRI.J.JAYAKUMAR

RESPONDENT/COMPLAINANT:

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

BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 25-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEXURE A1- CERTIFIED COPY OF THE PROCEEDING PAPER IN
S.T.NO.148/2008 OF JUDICIAL FIRST CLASS MAGISTRATE
COURT II, ATTINGAL.
- ANNEXURE A2- TRUE COPY OF THE DEPOSITION OF PW-1.
- ANNEXURE A3- TRUE COPY OF THE DEPOSITION OF PW-2.
- ANNEXURE A4- TRUE COPY OF THE DEPOSITION OF PW-3.
- ANNEXURE A5- TRUE COPY OF THE DEPOSITION OF PW-4.
- ANNEXURE A6- CERTIFIED COPY OF THE ORDER DATED 29.1.2015 IN
S.T.NO.148/2008 OF JUDICIAL FIRST CLASS MAGISTRATE
COURT II, ATTINGAL.

RESPONDENTS' ANNEXURES: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

B. KEMAL PASHA, J.

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Crl.M.C. No.981 of 2015
.....

Dated this the 25th day of September, 2015

ORDER

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Heard learned counsel for the petitioner and perused the letter from the learned Judicial First Class Magistrate's Court-II, Attingal.

2. The offences involved are under Section 5(a) of the Kerala Rationing Order along with Sections 3 and 7 of the Essential Commodities Act. The trial which has to be conducted in the matter is a warrant trial based on a police report. Instead of that, mistakenly, the earlier officer manning the court below, had chosen to proceed with a summary trial.

3. When the present judicial officer has taken charge, the mistake committed by the earlier officer was traced out and accordingly, the matter has been re-numbered as a calendar case for proceeding with

warrant trial. Even otherwise in the case of summary trial, when there is a change of the presiding officer, the trial has to be commenced afresh. This Court does not find any error in the order dated 29.01.2015 passed by the court below. The said order does not suffer from any illegality, irregularity, impropriety or jurisdictional error. Matters being so, the same is not liable to be interfered with.

In the result, this Crl.M.C. is dismissed.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/25/09

// True Copy //

PA to Judge