

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

TUESDAY, THE 18TH DAY OF AUGUST 2015/27TH SRAVANA, 1937

CrI.MC.No. 948 of 2013 ()

**C.C.NO.2515/2011 OF THE COURT OF JUDICIAL FIRST CLASS MAGISTRATE,
IRINJALAKUDA**

PETITIONERS/ACCUSED NOS.1 TO 5:-:

- 1. JITHU
S/O.BALAKRISHNAN, KALAPPURAYIL HOUSE, ETTUMUNA DESOM
OORAKAM VILLAGE.**
- 2. VINOD,
S/O.VASUDEVAN, KALAPPURAYIL HOUSE, ETTUMUNA DESOM
OORAKAM VILLAGE.**
- 3. SOORAJ,
S/O.RAVEENDRAN, KALAPPURAYIL HOUSE, ETTUMUNA DESOM
OORAKAM VILLAGE.**
- 4. NISHANTH,
S/O.RADHAKRISHNAN, KARANAYIL HOUSE, KALAPPURAYIL HOUSE
ETTUMUNA DESOM, OORAKAM VILLAGE.**
- 5. SUDHAKARAN,
S/O.GANGADHARAN, PUTHUNANDHAM HOUSE
KALAPPURAYIL HOUSE, ETTUMUNA DESOM, OORAKAM VILLAGE.**

**BY ADVS.SRI.P.VIJAYA BHANU (SR.)
SRI.M.REVIKRISHNAN
SRI.VIPIN NARAYAN**

RESPONDENTS/DEFACTO COMPLAINANT AND STATE:-:

- 1. N.D.VIJAYAKUMARI
ASSISTANT EXECUTIVE ENGINEER
ELECTRICAL SUB DIVISION
KERALA STATE ELECTRICITY BOARD OFFICE, KARUVANNUR 680 711.**
- 2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM 682 031.**

**R1 BY ADV. SRI.K.M.SATHYANATHA MENON,SC,KSEB
R2 BY PUBLIC PROSECUTOR SRI. RAFAEEK V.K.**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 18-08-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE A: COPY OF THE FINAL REPORT IN C.C.NO.2515/11 ON THE FILE OF THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE, IRINJALAKUDA.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A. TO JUDGE

shg/

K.P. JYOTHINDRANATH, J.

Crl.M.C.No.948 of 2013

Dated this the 18th day of August, 2015

O R D E R

This is an application filed under Section 482 of the Code of Criminal Procedure.

2. The case of the petitioners is that petitioners are the accused in C.C.No.2515/2011 on the file of the Judicial First Class Magistrate Court, Irinjalakuda. It is the case of the petitioners that crime No.432/2011 of Irinjalakuda Police Station is registered for offences under Sections 143, 147, 447, 294(b), 506(1) and 353 r/w. Section 149 of IPC.

3. The facts in a nutshell is that the accused who are the residents of Karuvannur had the grievance that in their residential area there was failure of electric supply due to some disruption in 11 K.V. feeder. The supply not reestablished and the accused on 13.3.2011 at about 21 hrs. went to the KSEB office therein and trespassed inside and used abusive words and the allegation is that they had obstructed from using the telephone by the staff. The

people also removed the flex name boards of the Assistant Executive Engineer and Assistant Engineer and thereby committed the offence.

4. When petition came up for hearing, the counsel for the petitioners submitted before me that when continuously electricity supply was not therein, if some natives protested, they cannot be blamed with.

5. It is the submission that there is no case for the prosecution at the initial point of time that these petitioners were the accused. Originally the case was that eight persons trespassed and when the final report filed the police stated that there were only five persons.

6. I heard the learned Public Prosecutor.

7. The learned Public Prosecutor submitted before me that this is a case where the locals took the law in hand. In such a case this Court may not quash the proceedings as it will give a wrong signal to the society.

8. Surely, the counsel for the petitioners raised a question whether the employees of the KSEB will come

under the purview of public servants. The KSEB is now became a limited company.

9. The Prosecutor got a case that at that point of time it was a Corporation constituted as a per a statute. As such, they will squarely come under the purview of the public servants.

10. In this case, the main aspect to be considered is whether a prima facie case made out as per the police charge. Few people went to the KSEB office to complain about disruption of electric supply and if the officials felt that it is an interruption in their official duty, whether an offence will lie. Surely, the consumers will be entitled to go and enter to the KSEB office. The entry will become trespass only at the moment they started to commit any offence or at least violate any direction of the officials. Now visualising all these aspects and the right of the people at the same time, I feel that when a group of people went to complain about their grievance of non supply of electricity, even if they raised their voice, it cannot termed

as an unlawful assembly. Surely, in this case, there is no allegation that they had committed an offence under Section 323 IPC. The only allegation is that they had committed an offence under Section 294(b) as well as 506 (1) of IPC, apart from Section 353 of IPC.

I perused all charges to see what is the obscene words they had used or what is the threat they had made. The obscene word used is not stated. Similarly, actual words of threat is also not stated. Therefore, I feel that the proceedings is an unnecessary usurping of judicial process. Hence using the inherent power all proceedings in C.C.No.2515/2011 on the file of the Judicial First Class Magistrate Court, Irinjalakuda is hereby quashed.

**K.P. JYOTHINDRANATH
JUDGE**

shg/