

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 1ST DAY OF OCTOBER 2015/9TH ASWINA, 1937

CrI.MC.No. 2294 of 2014 ()

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CC.NO. 221/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT -II,  
THAMARASSERY  
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PETITIONER/ACCUSED:

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ABRAHAM,S/O.DEVASSIA, AGED 64 YEARS,  
MANGALATH HOUSE, KOODARANHI P.O.,  
KOZHIKODE.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENT(S)/COMPLAINANT/STATE :

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1. SUB INSPECTOR OF POLICE,  
THIRUVAMBADY POLICE STATION-680 022.
  2. ASSISTANT POLICE SUB INSPECTOR,  
THIRUVAMBADY POLICE STATION-680 022.
  3. STATE OF KERALA,  
REP. BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM-682 031.

BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD  
ON 01-10-2015,ALONG WITH CRL.M.C.NO.6409 OF 2014, THE COURT  
ON THE SAME DAY PASSED THE FOLLOWING:

sts

**Crl.MC.No. 2294 of 2014 ()**  
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**APPENDIX**

**PETITIONER(S)' ANNEXURES:**  
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**ANNEX-I. COPY OF THE FINAL REPORT IN CC NO.221/2014 ON THE FILE OF THE JUDICIAL FIRST 1ST MAGISTRATE -II, THAMARASSERY DATED 10/1/2014.**

**ANNEX-II COPY OF THE NOTIFICATION ISSUED BY THE CENTRAL GOVERNMENT**

**RESPONDENT(S)' ANNEXURES:** **NIL**  
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**/TRUE COPY/**

**P.A.TO JUDGE**

**sts**

**B. KEMAL PASHA, J.**

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Crl.M.C. Nos.2294 & 6409 of 2014  
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*Dated this the 1<sup>st</sup> day of October, 2015*

**ORDER**

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Petitioner is the accused in CC No.221/2014 as well as CC No.520/2014 of the Judicial First Class Magistrate's Court-II, Thamarassery. What is under challenge in Crl.M.C.No.2294/2014 is the final report relating to CC No.221/2014. In Crl.M.C.No.6409/2014, the final report in Crime No.47/2014 of Thiruvambady Police Station, from which CC No.520/2014 has arisen is under challenge. In both the matters, the offence is one under Section 4(1)(A) read with Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957. Both the final reports are filed by the Grade Assistant Sub Inspector of Police, Thiruvambady Police Station.

2. As per Section 22 of the said Act, no court shall take cognizance of any offence under the said Act or in Rules made thereunder, except upon complaint in writing made by a person authorised in this behalf by the Central Government or the State

Government. Copy of the concerned notification has been produced as Annexure-II in both the matters. Serial No.3 clearly specifies that "*Police Officers of and above the rank of Sub Inspector in the State*" is the designated officer, which means that he is one of the persons authorised to file such a complaint in writing. The Assistant Sub Inspector of Police is not a person authorised to file such a complaint. Matters being so, both the complaints relating to the matters are not legally sustainable and, therefore, the proceedings are liable to be quashed.

In the result, these Crl.M.Cs. are allowed and all further proceedings in CC No.221/2014 and CC No.520/2014 of the Judicial First Class Magistrate's Court-II, Thamarassery are quashed.

Sd/-  
**(B.KEMAL PASHA, JUDGE)**

aks/01/10

*// True Copy //*

*PA to Judge*