

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA, 1937

CrI.MC.No. 3671 of 2013 ()

**-----
CRIME NO. 437/2013 OF MUKKOM POLICE STATION.**

.....

PETITIONER/ACCUSED:

**BILLY K.VARGHESE,
S/O.LATE P.V.KORAH, AGED 58 YEARS,
MANAGER, CALICUT ESTATE,
MUKKOM P.O, KOZHIKODE -673 602.**

BY ADV. SRI.T.G.RAJENDRAN.

RESPONDENT/COMPLAINANT/STATE:

- 1. SUB INSPECTOR OF POLICE,
MUKKOM POLICE STATION.**
- 2. STATE,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.P. MAYA.

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 16-12-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

ANNEXURE I. COPY OF THE SEARCH LIST.

ANNEXURE II. COPY OF THE FIRST INFORMATION REPORT.

ANNEXURE III COPY OF THE FINAL REPORT.

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

B.KEMAL PASHA, J.

=====

Crl.M.C. No.3671 of 2013

=====

Dated this the 16th day of December, 2015

ORDER

The petitioner is the accused in C.C.No.1266 of 2013 of the Judicial First Class Magistrate's Court-II, Thamarassery, which has arisen from Crime No.437 of 2013 of the Mukkom Police Station, for the offences under Section 5(a) of the Kerala Rationing Order, 1966 read with Sections 3 and 7 of the Essential Commodities Act.

2. Annexure-III is the Final Report. The allegation against the petitioner is that on 11.06.2013 at 1 p.m., he was found keeping 38 Kgs of ration wheat and 76 Kgs of ration boiled rice, which were illegally collected by him from some of the ration shops. The search and seizure was conducted by the Grade Sub Inspector, Mukkom Police Station.

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

4. As per Clause 59(1)(d) of the Kerala Rationing Order, 1966, the District Collector or any of the officer of the Civil Supplies Department [not below the rank of a Rationing Inspector] or any officer authorised by the District Collector in this behalf can conduct the search and seizure like the present one. The Grade Sub Inspector is not a person authorised to conduct such a search and seizure within the meaning of Clause 59(1)(d) of the Kerala Rationing Order. Matters being so, the search and seizure are illegal and the evidence collected cannot be made use of for canvassing an offence against the petitioner. Apart from that, there is absolutely nothing to show that these articles were meant for public distribution as ration articles or these articles were illegally collected by the petitioner from ration shops. Matters being so, all further proceedings in C.C.No.1266 of 2013 pending before the the Judicial First Class Magistrate's

Court-II, Thamarassery, as against the petitioner, based on Annexure-III Final Report in Crime No.437 of 2013 of the Mukkom Police Station, can be quashed.

In the result, this Crl.M.C. is allowed and all further proceedings in C.C.No.1266 of 2013 pending before the the Judicial First Class Magistrate's Court-II, Thamarassery, as against the petitioner, based on Annexure-III Final Report in Crime No.437 of 2013 of the Mukkom Police Station, are hereby quashed.

Sd/-

**B.KEMAL PASHA
JUDGE**

DSV/17/12/15

// True Copy //

PA. To Judge