

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 9TH DAY OF OCTOBER 2015/17TH ASWINA, 1937

Crl.MC.No. 3798 of 2013 ()

C.P. 12/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, THALIPARAMBA

PETITIONERS/ACCUSED NOS.1 TO 2 :

- 1. THRESIAMMA JOY, AGED 65 YEARS,
W/O. JOY, VALIYAPARAMBIL, KARTHIKAPURAM P.O.
ALAKKODE, KANNUR DISTRICT.**
- 2. JOY, AGED 67 YEARS,
S/O. JOSEPH, VALIYAPARAMBIL, KARTHIKAPURAM P.O.,
ALAKKODE, KANNUR DISTRICT.**

**BY ADVS.SMT.K.V.BHADRA KUMARI
SMT.ANILA GEORGE**

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 09-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE I : CERTIFIED COPY OF THE CRIME AND OCCURRENCE REPORT
IN CRIME NO.41/2011 OF ALAKKODE EXCISE RANGE.

ANNEXURE II: CERTIFIED COPY OF THE CHARGE SHEET IN CP NO.12/2013 OF
JFCM COURT, TALIPARAMBA.

ANNEXURE III SERIES(3 NOS.): CERTIFIED COPIES OF BILLS (3 NOS) ISSUED BY
KSCCF LTD., FL-1-13015, ALAKKODE DTD.30.11.2011.

ANNEXURE IV : COPY OF MEDICAL CERTIFICATE ISSUED FROM DISTRICT
HOSPITAL, KANNUR, DTD.1.5.2013 TO THE 1ST PETITIONER.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.S. TO JUDGE

bp

B. KEMAL PASHA, J.

.....
CRL. M.C. No. 3798 of 2013
.....

Dated this the 9th day of October, 2015

ORDER

Petitioners are the accused in C.P.No.12/2013 of the Judicial First Class Magistrate's Court, Thaliparamaba for the offence punishable under Section 55(i) of the Abkari Act.

2. The allegation against the petitioners is that on 1-12-2011 at 9.45 a.m., the Excise party conducted a search at the stationery shop of the 2nd accused and they could find 1.555 litres of IMFL, along with a bottle of water, a bottle of soda and a glass tumbler, in the refrigerator inside the shop. The allegation levelled against the petitioners is that they were found keeping the said quantity of IMFL for sales to various customers. Even though it is alleged that the Excise party could find some persons running away from the shop,

there is no allegation that they could find the ongoing sales of Indian Made Foreign Liquor at the shop.

3. The specific case of the petitioners is that the said quantity of IMFL was kept by the 2nd accused, who is the 2nd petitioner herein, for his personal consumption and he had lawfully procured it from the outlet of the Beverages Corporation. The receipt for the purchase of such a quantity of IMFL is also produced.

4. On going through the entire materials, it seems that at the most what could be said is that the 2nd respondent was found keeping the permissible quantity of IMFL, lawfully procured by him from the outlet of the Beverages Corporation, in a refrigerator at his shop. When he has got a case that it was kept for his personal consumption, it cannot be said that it was kept for sales, especially when the Excise party could not find any such ongoing sales of IMFL at the shop of the petitioners. Matters being so, there cannot be any successful

prosecution in the matter, and the continued prosecution will no doubt be a wastage of time. Matters being so, all further proceedings in C.P.No.12/2013 of the Judicial First Class Magistrate's Court, Thaliparamba, based on Annexure II, can be quashed.

In the result, this Crl.M.C. is allowed and all further proceedings in C.P.No.12/2013 of the Judicial First Class Magistrate's Court, Thaliparamba, based on Annexure II, are hereby quashed.

Sd/- B.KEMAL PASHA, JUDGE

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[True copy]

P.S. to Judge