

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 31ST DAY OF AUGUST 2015/9TH BHADRA, 1937

Crl.MC.No. 5802 of 2015 ()

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CC. NO.1/2005 OF ADDITIONAL SESSIONS COURT, NORTH PARAVUR.**

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PETITIONER/ACCUSED:

**M.P. VARGHESE, AGED 62 YEARS,
S/O. PAULOSE, RESIDING AT MATHENMOLEL HOUSE,
NELLIMATTAM, KOTHAMANGALAM, ERNAKULAM DISTRICT.**

BY ADV. SRI.PEEYUS A.KOTTAM.

RESPONDENTS/STATE/COMPLAINANT:

- 1. STATE OF THE KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, COCHIN - 682 031,
(REPRESENTED BY THE SUB INSPECTOR OF POLICE,
OONUKAL POLICE STATION, (INVESTIGATING OFFICER
IN CRIME NO. 1099/2014 OF OONUKAL POLICE STATION,
ERNAKULAM DISTRICT).**
- 2. SUB ENGINEER, ELECTRICAL SECTION -2,
KSEB, KOTHAMANGALAM,
ERNAKULAM DISTRICT -686 691.**

**R1 BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE.
R2 BY ADV. SRI.K.M.SATHYANATHA MENON, SC, KSEB.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 31-08-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

ANNEXURE A1 COPY OF THE INTERIM ORDER OF THIS HONOURABLE COURT IN WP(C).NO.30314/2014-(L) DATED 14/11/2014.

ANNEXURE A2 COPY OF THE COMPLAINT DATED 13/11/2014 FILED BY 2ND RESPONDENT BEFORE SUB INSPECTOR OF POLICE, OONNUKAL POLICE STATION.

ANNEXURE A3 COPY OF THE FIR NO.1099 DATED 17/11/2014 REGISTERED AGAINST THE PETITIONER BY THE 1ST RESPONDENT OF THE OONNUKAL POLICE STATION.

ANNEXURE A4 COPY OF THE FINAL CHARGE DATED 28/02/2015 FILED BY THE 1ST RESPONDENT BEFORE THE ADDITIONAL SESSIONS COURT NORTH PARAVUR IN CC. NO.1/2005.

ANNEXURE A5 COPY OF THE SITE MAHAZAR DATED 11/11/2014 PREPARED BY THE 2ND RESPONDENT.

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

B.KEMAL PASHA, J.

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CRL.M.C. No.5802 of 2015

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Dated this the 31st day of August, 2015

ORDER

The petitioner is challenging Annexure A4 Final Report filed by the Police, alleging an offence punishable under Section 135(1) of the Kerala Electricity Act, 2003. It seems that in the Final Report, the offence is shown as one under Section 135(1)A of the said Act. Section 135(1)A is not a penal offence. The allegation against the petitioner is that he had allegedly misused electricity for purpose other than for which the usage of electricity was authorised. In such case, the offence squarely falls under Section 135(1)(e) of the act. Whatever it is, the same is under challenge now.

2. According to the learned counsel for the petitioner, there is no evidence to substantiate or even to attract an offence within the meaning of 135(1)(e) of the Kerala Electricity Act, 2003 in this matter. It seems that hearing on the question of framing charges was not conducted by the learned Sessions Judge. It is

for the petitioner to point out the said aspects at the time of hearing on the question of framing charges. In such case, the court below shall consider the said question and pass orders on merit with regard to the said contentions taken up by the petitioner.

With liberty to avail such an opportunity, this Crl.M.C is closed. Till the hearing of the question on the framing of charges, the learned Sessions Judge shall not insist the personal presence of the petitioner.

Sd/-

**B. KEMAL PASHA
JUDGE**

DSV/31/8/15