

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 25TH DAY OF NOVEMBER 2015/4TH AGRAHAYANA, 1937

Crl.MC.No. 6886 of 2015

CRIME NO. 500/2015 OF MULANTHURUTHY POLICE STATION, ERNAKULAM DISTRICT.
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PETITIONER(S)/ACCUSED:

1. BIJU, S/O.AYYAPPAN, AGED 43 YEARS,
KARITHADATHIL, EDAKKATTUVAYAL P.O.,
EDAKKATTUVAYAL VILLAGE, KANAYANNUR TALUK,
ERNAKULAM DISTRICT.
2. RAJU, S/O.MURUGAN, AGED 26 YEARS,
CHATHANKUZHAYIL HOUSE, THIRUVANIYOOR VILLAGE,
KUNNATHUNADU TALUK, ERNAKULAM DISTRICT.
3. SREERAJ, S/O.MANI, AGED 27 YEARS,
KEZHAPLAKKAL, PERUVANTHANA,
PEERUMEDU TALUK, IDUKKI DISTRICT.

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S)/COMPLAINANT:

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HONOURABLE HIGH COURT OF KERALA AT
ERNAKULAM, PIN - 682031,
REPRESENTED BY SUB INSPECTOR OF POLICE,
MULANTHURUTHY POLICE STATION,
ERNAKULAM DISTRICT IN CRIME NO.500/2015.
2. SUB INSPECTOR OF POLICE,
MULANTHURUTHY POLICE STATION,
ERNAKULAM DISTRICT, PIN - 682314.

BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 25-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES:

ANNEXURE-I: TRUE COPY OF THE FIRST INFORMATION REPORT IN
CRIME NO.500/2015 OF MULANTHURUTHY POLICE STATION,
ERNAKULAM DISTRICT.

ANNEXURE-II: TRUE COPY OF THE FINAL REPORT SUBMITTED BY THE
SECON RESPONDENT IN CRIME NO.500/2015 OF
MULANTHURUTHY POLICE STATION, ERNAKULAM DISTRICT.

ANNEXURE-III: TRUE COPY OF G.O.NO.77/2015ID DATED 5.6.2015.

RESPONDENT(S)' ANNEXURES: NIL

//TRUE COPY//

P.S. TO JUDGE

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[CR]

B. KEMAL PASHA, J.

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Crl.M.C. No.6886 of 2015 C
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Dated this the 25th day of November, 2015

ORDER

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Petitioners are charge sheeted for offences under Sections 4(1)(A) and 21 of the Mines and Minerals (Regulation of Development) Act, 1957. The present prosecution is through Annexure-2 final report filed by the Additional Sub Inspector of Police, Mulanthuruthy Police Station.

2. As per Section 22 of the said Act, no court shall take cognizance of any offence punishable under that Act or any Rules made thereunder, except on the complaint in writing made by a person authorised in that behalf by the Central Government or the State Government. As per Annexure-3 notification dated 05.06.2015, a police officer is

not a person authorised to prefer the complaint in writing within the meaning of Section 22 of the Act. The present final report was filed on 05.06.2015. Therefore, when the notification commenced on 05.06.2015, the present compliant is also hit by the said notification. As on the date of filing of the Final Report, the Additional Sub Inspector of Police was not authorised to file a complaint. Even otherwise, it seems that a police report has been filed in the matter and, therefore, cognizance could not have been taken on such a police report. The person authorised should have filed a complaint in writing in the matter. Therefore, Annexure-2 is not legally sustainable and the same is liable to be quashed.

In the result, this CrI.M.C. is allowed and Annexure-2 final report is quashed.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/25/11

// True Copy //

PA to Judge