

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA, 1937

Crl.MC.No. 7168 of 2015

C.C.NO.185/2014 OF CHIEF JUDICIAL MAGISTRATE COURT, PALAKKAD

PETITIONER(S)/ACCUSED NOS. 2 TO 5 :

- 1. DEVI, AGED 29 YEARS,
W/O.KRISHNAN, VEERAPANDIPIRIVU, KUPPANDANPALAYAM,
THIRIPPUR, TAMIL NADU.**
- 2. JAYAKUMAR, AGED 41 YEARS,
S/O.SUBBAYYAN, HOUSE NO.5/521, RAJIVEGANDHI NAGAR,
KARAMADA ROAD, METTUPALAYAM, TAMIL NADU.**
- 3. ANITHA, AGED 33 YEARS,
D/O.LATE MANI, MASAKKAL, KOTHAGIRI,
NEELAGIRI DISTRICT, TAMIL NADU.**
- 4. S.LOGAN, AGED 41 YEARS,
S/O.SUBBAYYAN, MASAKKAL.P.O, KOTHAGIRI,
NEELAGIRI DISTRICT, TAMIL NADU.**

BY ADV. SRI.V.A.JOHNSON (VARIKKAPPALLIL)

RESPONDENT(S)/COMPLAINANT :

**STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 18-12-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

ANNEXURE A: CERTIFIED COPY OF THE F.I.R.NO.1017/2014 OF PALAKKAD TOWN SOUTH POLICE STATION, PALAKKAD ALONG WITH F.I. STATEMENT DATED 14.07.2014.

ANNEXURE B: CERTIFIED COPY OF THE FINAL REPORT IN C.C.NO.185/2014 OF THE COURT OF CHIEF JUDICIAL MAGISTRATE, PALAKKAD.

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

B.KEMAL PASHA, J.

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Crl.M.C. No. 7168 of 2015

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Dated this the 18th day of December, 2015

O R D E R

Petitioners are A2 to A5 in C.C.No.185/2014 of the Chief Judicial Magistrate's Court, Palakkad, which has arisen from Crime No.1017/2014 of the Town South Police Station, Palakkad, alleging offences punishable under Sections 3, 4 and 5 of the Immoral Traffic (Prevention) Act, 1956.

2. According to the petitioners, the final report in the case ought not to have been accepted by the court below and cognizance ought not to have been taken on it on the ground that the search was conducted and the crime was allegedly detected by the Sub Inspector of Police, Town South Police Station, Palakkad.

3. According to the learned counsel for the

petitioners, a search within the meaning of Section 15 of the Immoral Traffic (Prevention) Act, 1956 has to be conducted by the Special Police Officer or the Trafficking Police Officer, as the case may be. The Sub Inspector of Police cannot be a Special Police Officer or Trafficking Police Officer within the meaning of Section 13(2) of the said Act. As per Section 13(2), the Special Police Officer shall not be below the rank of an Inspector of Police.

4. The learned Public Prosecutor has submitted that on that particular date on which the search was conducted, the concerned Circle Inspector was on leave and thereby, he had entrusted his duties with the Sub Inspector of Police. When the Special Police Officer within the meaning of Section 13(1) has to be appointed by the Government, such a Special Police Officer cannot delegate his powers to the Sub Inspector of Police. Matters being so, the search conducted in this case and the evidence collected out of it cannot be relied on for a

successful prosecution. Therefore, all further proceedings in C.C.No.185/2014 of the Chief Judicial Magistrate's Court, Palakkad, as against the petitioners herein, based on Annexure-B final report, are liable to be quashed.

In the result, this Crl.M.C is allowed and all further proceedings in C.C.No.185/2014 of the Chief Judicial Magistrate's Court, Palakkad, as against the petitioners herein, based on Annexure-B final report, are hereby quashed.

Sd/-
B.KEMAL PASHA, JUDGE

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