

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 4TH DAY OF DECEMBER 2015/13TH AGRAHAYANA, 1937

Cr1.MC.No. 7304 of 2015 ()

CC 1398/2014 of ADDL.CHIEF JUDICIAL MAGISTRATE'S COURT
(ECONOMIC OFFENCES), ERNAKULAM
CRIME NO. 1106/2014 OF ERNAKULAM SOUTH POLICE STATION,
ERNAKULAM

PETITIONER/ACCUSED:

PERIYASAMY, AGED 62 YEARS,
S/O.KRISHNAN, SREEKRISHNA (H), CHAKALACKAL ROAD,
PERUMANOOR, THEVARA, ERNAKULAM DISTRICT,
PIN - 682 015.

BY ADVS.SRI.SHINU J.PILLAI
SMT.S.SUJA
SRI.B.R.VIJAYABABU
SRI.S.ABHILASH VISHNU

RESPONDENT/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY SUB INSPECTOR OF POLICE,
ERNAKULAM TOWN SOUTH POLICE STATION,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.

BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 04-12-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

DSV/5/12/15

Cr1.MC.No. 7304 of 2015 ()

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE-A: FINAL REPORT DATED 24.7.2014 FILED BY THE
RESPONDENT BEFORE THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE
COURT (ECONOMIC OFFENCES), ERNAKULAM.

RESPONDENT'S ANNEXURES :

NIL

// True Copy //

P.A. To Judge

DSV/5/12/15

B.KEMAL PASHA, J.

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Crl.M.C. No.7304 of 2015

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Dated this the 4th day of December, 2015

ORDER

The petitioner is the accused in C.C.No.1398 of 2014 of the Additional Chief Judicial Magistrate's Court (Economic Offences), Ernakulam, which has arisen from Crime No.1106 of 2014 of the Ernakulam Town South Police Station, for the offences under Sections 3(1)(c) and 4(1)(a) of the Liquefied Petroleum Gas (Regulations of Supply and Distribution) Order, 2000 (hereinafter referred to 'the Order 2000') read with Sections 3 and 7(1)(a)(ii) of the Essential Commodities Act, 1955.

2. According to the petitioner, the court below ought not to

have taken cognizance of the offences based on the Final Report filed by the Sub Inspector of Police, Ernakulam Town South Police Station.

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

4. As per Rule 13(1) of the Order 2000, any officer of the Central or the State Government, not below the rank of Inspector duly authorised by general or special order, or such other officer mentioned in Rule 13(1) only, can conduct search and seizure. Here, in this case, the search and seizure was conducted by the Sub Inspector of Police, Ernakulam Town South Police Station, who could not be an authorised officer under the said Order. Matters being so, the prosecution as such is bad in law and therefore, all further proceedings in C.C.No.1398 of 2014 of the Additional Chief Judicial Magistrate's Court (Economic Offences), Ernakulam, as against the petitioner, based on Annexure-A Final Report in Crime

No.1106 of 2014 of Ernakulam Town South Police Station are liable to be quashed.

In the result, this Crl.M.C. is allowed and all further proceedings in C.C.No.1398 of 2014 of the Additional Chief Judicial Magistrate's Court (Economic Offences), Ernakulam, as against the petitioner, based on Annexure-A Final Report in Crime No.1106 of 2014 of Ernakulam Town South Police Station are hereby quashed.

Sd/-

**B.KEMAL PASHA
JUDGE**

DSV/4/12/15

// True Copy //

P.A. To Judge