

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937

Crl.MC.No. 6263 of 2014

CRIME NO. 645/2013 OF KOOTHATTUKULAM POLICE STATION, ERNAKULAM
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PETITIONER(S)/ACCUSED:

**AJAS, AGED 21 YEARS,
S/O.ASHARAF, PUTHUKUDISSERI HOUSE, KUMMANODEKARA,
PATTIMATTAM, ERNAKULAM DISTRICT.**

BY ADV. SRI.R.KRISHNAKUMAR (CHERTHALA)

RESPONDENT(S)/COMPLAINANT & STATE:

- 1. SUB INSPECTOR OF POLICE,
KOOTHATTUKULAM POLICE STATION, (CRIME NO 645/2013),
KOOTHATTUKULAM, ERNAKULAM DISTRICT - 683 514.**
- 2. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM - 682 031.**

BY SENIOR PUBLIC PROSECUTOR SMT.SAREENA GEORGE P.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
26-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

Crl.MC.No. 6263 of 2014

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEXURE A1: A TRUE COPY OF THE FIR IN CRIME NO 645/2013 OF
KOOHATTUKULAM POLICE STATION DT 30-07-2013.**

**ANNEXURE A2: A CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO 645/2013 OF
KOOHATTUKULAM POLICE STATION DT 21-10-2013.**

**ANNEXURE A3: A TRUE COPY OF THE ORDER DT 29-09-2014 IN C.C. NO 290/2014 ON
THE FILE OF THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE
COURT, KOOHATTUKULAM.**

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P. UBAID, J.

Crl.M.C.No.6263 of 2014

Dated this the 26th day of March, 2015

O R D E R

The petitioner herein is the accused in C.C.No.290/2014 of the Judicial First Class Magistrate Court, Koothattukulam. The police submitted final report in the said case under Section 420 IPC and under Section 4 read with 21 of the Mines and Minerals (Development and Regulation) Act (for short, 'the MMDR Act'). On an application filed by the petitioner, the learned Magistrate discharged him under Section 239 Cr.P.C. as regards the offence alleged under Section 420 IPC. The prosecution now continues under the provisions of the MMDR Act. He brought this proceeding under Section 482 Cr.P.C. to quash the prosecution, on the ground that there is no proper complaint as provided under Section 21 of the MMDR Act. Much probe is not required to find that the present prosecution cannot be sustained. The law provides specifically that cognizance can be taken under the MMDR Act only on a complaint made by the authorised officer. Cognizance on police report filed under section 173(2) Cr.P.C. is not possible, and is not authorised under the MMDR Act. Thus, I find that present prosecution that continues against the petitioner under

the MMDR Act is liable to be quashed. Of course, the police or the authorised officer can file a proper complaint, subject to the question of limitation.

In the result, this petition is allowed. The prosecution against the petitioner in C.C.No.290/2014 before the Judicial First Class Magistrate Court, Koothattukulam, will stand quashed under Section 482 Cr.P.C.

Sd/-
P. UBAID, JUDGE

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