

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

Crl.MC.No. 6318 of 2014

CC 1584/2011 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-II, ERNAKULAM
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PETITIONER(S)/ACCUSED:

**RIYAS, AGED 34 YEARS,
S/O.MUHAMMED, KUMIKAMKATTIL HUSE, CHERAYIL P.O.,
KONDADU, PALAKKAD - 678 635.**

BY ADV. SRI.P.T.JOSE

RESPONDENT(S)/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY SHO, CENTRAL POLICE STATION,
ERNAKULAM THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
15-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

Crl.MC.No. 6318 of 2014

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEXURE A1: COPY OF THE CHARGE SHEET IN CC 1548/2011 PENDING BEFORE
JFCM II COURT, ERNAKULAM.**

**ANNEXURE A2: COPY OF FIR NO.775/2011 DATED 5/03/2011 OF CENTRAL POLICE
STATION ERNAKULAM.**

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

B.KEMAL PASHA, J.

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Crl.M.C. No. 6318 of 2014

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Dated this the 15th day of December, 2015

O R D E R

The petitioner is the accused in C.C.No.1584/2011 of the Judicial First Class Magistrate's Court-II, Ernakulam, for the offences punishable under Sections 3, 6 and 7 of the Essential Commodities Act, 1955 and Clause 3 of LPG (Regulation of Supply and Distribution) order, 2000. According to the petitioner, the court below ought not to have taken cognizance of the matter as the entire search and seizure are bad in law.

2. As per Clause 13 of Order 2000, any officer of the Central or the State Government not below the rank of Inspector, duly authorised by a general or special order, can conduct a search and seizure. Here, in this

particular case, the search and seizure were conducted by the Sub Inspector of Police, Central Police Station, Ernakulam. As per Clause 13 of the aforesaid order 2000, a Sub Inspector of Police can never be an authorised officer. Matters being so, the entire search and seizure are bad in law and the same cannot be relied on. Therefore, all further proceedings against the petitioner in C.C.No.184/2011 of the Judicial First Class Magistrate's Court-II, Ernakulam, based on Annexure – AI final report, are liable to be quashed.

In the result, this Crl.M.C is allowed and all further proceedings against the petitioner in C.C.No.184/2011 of the Judicial First Class Magistrate's Court-II, Ernakulam, based on Annexure – AI final report, are hereby quashed.

Sd/-
B.KEMAL PASHA, JUDGE