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**Biju and Others Vs. State of Kerala, represented by Public Prosecutor,
Honourable High Court of Kerala at Ernakulam and Another**

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Honourable High Court of Kerala at Ernakulam and Another**

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Court : Kerala

Decided On : Nov-25-2015

Judge : B. Kemal Pasha

Appeal No. : Crl.MC.No. 6886 of 2015

Appellant : Biju and Others

**Respondent : State of Kerala, represented by Public Prosecutor, Honourable
High Court of Kerala at Ernakulam and Another**

Judgement :

1. 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 authorized 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.

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