

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 12TH DAY OF JANUARY 2015/22ND POUSHA, 1936

Crl.MC.No. 82 of 2015 ()

**CMP 12129/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT-I,NEDUMANGAD
CRIME NO. 1728/2014 OF VENJARAMOODU POLICE STATION ,
THIRUVANANDAPURAM DISTRICT
=====**

PETITIONER/PETITIONER:

**SHAFEEQ, VADAKKEKONATHVILAYIL
VEEDU, PULLAMPARA, TRIVANDRUM.**

BY ADV. SRI.M.R.SARIN

RESPONDENT/STATE:

- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. THE SUB INSPECTOR OF POLICE
VENJARAMOODU POLICE STATION
REPRESENTED THROUGH THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT. S. HYMA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12-01-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

CRL.M.C.No.82/2015

APPENDIX

PETITIONER'S EXHIBITS

- ANNEXURE A1** **COPY OF THE PETITION IN CMP NO.12129/2014 OF THE JUDICIAL 1ST CLASS MAGISTRATE-I, NEDUMANGAD**
- ANNEXURE A2** **CERTIFIED COPY OF THE ORDER DATED 04.12.2014 IN CMP NO. 12129/2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE-I, NEDUMANGAD**

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.82 of 2015

Dated this the 12th day of January, 2015

O R D E R

The petitioner herein is aggrieved by the condition imposed by the court below for releasing two of his vehicles under Section 451 Cr.P.C. Of course, there is a dispute whether the correct law applicable is the Mines and Minerals (Development and Regulation) Act or Kerala Protection of River Banks and Regulation of Removal of Sand Act. Whatever it be, the consideration here is whether the condition imposed by the court below is irrational, unreasonable and onerous. The learned counsel relies on **Sasi v. State of Kerala [2013(4)KLT 731]**. In **Shan v. State of Kerala [2010(3)KLT 413]**, this court observed that the deposit of 30% of the value of the vehicle would be appropriate. This Court cannot in fact fix such standard or percentage of amount, in all cases. However, in **Sasi v. State of Kerala** (cited supra), this Court observed that the conditions imposed by Magistrates will have to be reasonable, rational, and cannot be onerous. Here, two vehicles are involved. As per the

impugned order dated 04.12.2014, the learned Magistrate directed the petitioner to deposit 30% of the value of the vehicle. The short point for consideration is whether this condition is irrational, unreasonable or onerous. Of course, the allegations are serious. The number of vehicles involved is two. This is not a case where just one vehicle was used once by the petitioner for such purposes. It appears that the vehicles were used for such purposes on earlier occasions also. In such a situation, the condition imposed by the court below cannot be said to be fully irrational or unreasonable or onerous. However, in the interest of justice, I feel that some slight modification can be made in the conditions. Accordingly, the amount can be reduced to 25% of the value of the vehicle. To that extent, the impugned order can be modified, and the petitioner can be given some relief.

In the result, this Crl.M.C. is allowed in part. The impugned order passed by the learned Judicial First Class Magistrate Court-I, Nedumangad in Crl.M.P.No.1728/2014 will stand modified to the effect that the amount to be deposited by the petitioner as a condition for getting his vehicle released under Section 451

Cr.P.C. shall be 25% of the value of the vehicle.

Sd/-

P. UBAID, JUDGE

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