

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936

Crl.MC.No. 364 of 2015 ()

AGAINST THE ORDER IN CMP 3194/2014 of J.M.F.C.,MATTANNUR DATED
20-05-2014

CRIME NO. 92/2014 OF MATTANNUR POLICE STATION , KANNUR

PETITIONER(S)/PETITIONER:

K.P.PRASHANTH
S/O.KUMARAN, PRAJILA NIVAS, IRIKKUR P O
KANNUR DISTRICT

BY ADV. SRI.O.D.SIVADAS

RESPONDENT(S)/COMPLAINANT & STATE:

1. THE SUB INSPECTOR OF POLICE
MATTANNUR POLICE STATION, MATTANNUR-670702
2. STATE OF KERALA
REP BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM-682031

BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
03-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 364 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A1:-COPY OF THE FIR SEIZURE MAHAZAR, COMPLAINT AND REPORT
ANNEXURE A2:-COPY OF THE ORDER DTD 20/5/2014

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**Crl.M.C No.364 of 2015**  
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Dated this the 3rd February, 2015

ORDER

The petitioner herein is the registered owner of a Mini Lorry bearing Reg.No.KL-58/E 2520, involved in a crime registered by the Mattannur Police under Sections 20 and 23 of the Kerala Protection of River Banks and Regulation of Removal of Sand Act. An application filed by him for interim custody of the vehicle under Section 457 Cr.P.C was allowed by the learned Judicial First Class Magistrate, Mattannur on certain conditions. One of the conditions is that the petitioner shall deposit 30% of the value of the vehicle as fixed by the Motor Vehicle Inspector, the other is that the petitioner shall execute a bond with two solvent sureties for the balance amount, and the third condition is that the sureties shall produce solvency certificate along with copy of title deed to prove their solvency. The other conditions are of course usual conditions imposed in such proceedings. The petitioner's grievance is regarding the conditions 1 and 3. These conditions are sought to be set

aside under Section 482 of Cr.P.C.

2. On hearing both sides, I find that the objectionable condition requires some modification. Instead of 30% of the value of the vehicle, deposit of 20% can be made by the petitioner. Of course, as regards the third condition regarding solvency certificate and title deed, it is made clear that if the learned Magistrate is otherwise satisfied of the solvency of the sureties even without production of solvency certificate or title deed, they can be accepted. I do not find the extreme necessity of production of solvency certificate or title deed for releasing property under Section 457 of Cr.P.C. If the court is otherwise satisfied of the solvency of the sureties, production of solvency certificate or title deed need not be insisted.

In the result, this petition is partly allowed. The first condition imposed by the court below as per the order dated 20.5.2014 in C.M.P. No.3194 of 2014 will stand modified that deposit of 20% of the value of the vehicle shall be made by the petitioner. So also, as regards the third condition, it is clarified that if the learned Magistrate is

satisfied otherwise that the sureties are solvent, production of solvency certificate or title deed need not be insisted.

**Sd/-
P.UBAID
JUDGE**

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/True copy/

P.S to Judge