

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

Crl.MC.No. 551 of 2015 ()

IN CRMP 13485/2014 of J.M.F.C.-I, PALAKKAD

PETITIONER(S)/PETITIONER/ACCUSED :

**RAJESH AGED 40 YEARS
S/O. KUMARAN, KAMABAKOODAM HOUSE, PULINELLI
KOTTAYI, PALAKKAD.**

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENT(S)/RESPONDENT/COMPLAINANT:

**STATE OF KERALA
REPRESENTED BY ITS PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682 031
REPRESENTING THE SUB INSPECTOR OF POLICE
KOTTAYI POLICE STATION.**

R BY PUBLIC PROSECUTOR SMT. P. MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06-04-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 551 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE A1 : COPY OF THE REGISTRATION CERTIFICATE OF THE
MOTORCYCLE.**

**ANNEXURE A2 : COPY OF THE ORDER DTD.7.1.2015, IN CRIMINAL
MISCELLANEOUS PETITION NO.13485/2014 OF THE COURT OF
THE JUDICIAL FIRST CLASS MAGISTRATE-I, PALAKKAD.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 551 of 2015

Dated this the 6th day of April, 2015.

O R D E R

The petitioner herein claims to be the registered owner of the motor cycle No. KL 49-E-7690. Annexure A1 is copy of the registration certificate in his name. The said vehicle is involved in crime No.899 of 2014 of the Kottayi Police Station registered under Section 55 (a) of the Kerala Abkari Act, registered on the allegation that the driver of the motor cycle was found transporting 6.5 liters of Indian made foreign liquor. The fact of seizure was reported to the learned Magistrate having jurisdiction, and also to the authorized officer appointed under the Kerala Abkari Act. The petitioner made an application before the Judicial First Class Magistrate Court-I, Palakkad for interim custody of the vehicle under Section 451 Cr.P.C. The learned Magistrate disallowed the request on the ground that confiscation proceedings are pending before the authorized officer. The said order dated 7.1.2015 is under challenge, and it is sought to be set aside. On hearing both sides I find that

the vehicle can be released to the petitioner subject to the confiscation proceedings, and the result thereof at the hands of the authorized officer. This court has settled the position that in such cases the judicial authority can grant interim custody of the vehicle subject to the confiscation proceedings. During this proceeding I required the authorized officer to submit a report regarding the present stage of the confiscation proceedings. Such report is not so far received in court. However, the learned Public Prosecutor submits that the confiscation proceedings are going on. The quantity of liquor involved is not in fact huge. Still the authorized officer will have to take a decision, and if at all there is order of confiscation, the said order can be challenged in appeal by the concerned. Subject to all these proceedings and consequences, the vehicle can be released by the judicial authority to the registered owner, or the person entitled to claim interim custody, on appropriate reasonable conditions. In such matters, it would be unjust and inappropriate to decline the request for interim custody, because exposure of vehicle to sun and rain will cause irreparable damage. I find here that the learned Magistrate can call for a report from the

authorized Officer, and if he finds no possibility of it being concluded before 30.4.2014, the vehicle can be released to the petitioner on appropriate condition.

In the result, this petition is allowed. The impugned order will stand set aside. The court below is hereby directed to call for a report immediately from the authorized officer regarding the confiscation proceedings now going on, and if there is no possibility of it being concluded before 30.4.2015, the vehicle shall be released to the petitioner on appropriate reasonable conditions. C.M.P No.13485 of 2015 will accordingly stand revived in the court below for disposal afresh.

Sd/-

P.UBAID,
JUDGE

sab