

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 13TH DAY OF MARCH 2015/22ND PHALGUNA, 1936

Cr1.MC.No. 1428 of 2015

IN C.M.P NO.1758/2015 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT, MALAPPURAM

CRIME NO. 115/2015 OF VAZHAKKAD POLICE STATION, MALAPPURAM

PETITIONER/PETITIONER:

MUHAMMED ASHARAF O.M,
S/O.ABDU RAHIMAN O.M,
OTHAYAMANGALAM HOUSE, VILAYIL,
MALAPPURAM DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENT/STATE:

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM ,
KOCHI-682031 THROUGH
THS SUB INSPECTOR OF POLICE,
VAZHAKKAD POLICE STATION,
MALAPPURAM DISTRICT, PIN-673 640

BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 13-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 1428 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A: COPY OF THE FIR IN CRIME NO.115/2015 OF THE VAZHAKKAD
POLICE STATION DATED 3.2.2015

ANNEXURE B: COPY OF THE AFFIDAVIT AND PETITION IN CMP
NO.1758/2015 BEFORE THE JFCM MALAPPURAM

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.1428 of 2015

Dated this the 13th day of March, 2015

O R D E R

The petitioner herein claims to be the registered owner of a vehicle seized by the Sub Inspector of Police, Vazhakkad Police Station in Crime No.115/2015, registered under Sections 20 and 21 of the Protection of River Banks and Regulation of Removal of Sand Act, 2001. He made an application as C.M.P No.1758/2015 for interim custody of the vehicle under Section 451 of the Code of Criminal Procedure before the Judicial First Class Magistrate Court, Malappuram. The petitioner now seeks expeditious disposal of the said claim by the learned Magistrate. The report submitted by the learned Magistrate shows that the claim petition now stands posted to 20.3.2015 for getting certificate of valuation from the Regional Transport Officer, Malappuram. It appears that the learned Magistrate is unaware of the legal position recently settled by this Court, that in such matters the Magistrate will have the discretion to impose appropriate conditions in view of Section 23A of the Sand Act brought by amendment. Once an

application for custody of the vehicle is filed, the court cannot indefinitely wait for valuation purpose. If such a valuation is required, and if there is a delay on the part of the officer concerned, the Court will have to take necessary steps and see that the report is received at the earliest. Anyway, in this matter the learned Public Prosecutor in charge of the case is instructed to direct the Regional Transport Officer, Malappuram to take necessary steps to value the vehicle involved in the crime without any delay and submit report within a week. Since the claim petition stands posted to 20.3.2015 it will be appropriate to direct the learned Magistrate to dispose of the application by 10.4.2015.

In the result, this Criminal Miscellaneous Case is closed with direction to the court below and to the learned Public Prosecutor as given above.

**P.UBAID
JUDGE**

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