

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 18TH DAY OF AUGUST 2015/27TH SRAVANA, 1937

Crl.MC.No. 391 of 2014 ()

**CMP.NO. 1979/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, AMBALAPUZHA
CRIME NO. 228/2012 OF AMBALAPPUZHA POLICE STATION , ALAPPUZHA DISTRICT**

PETITIONERS/PETITIONERS:-

- 1. PUNI GOPAL SHIPPING PTE LTD.,
7 TEMASEK BOULEVARD, 28-03 SUNTECH TOWER - I,
SINGAPORE- 038987
REPRESENTED BY DULY AUTHORIZED POWER OF ATTORNEY,
MR.SHESHADRI VENKATACHALAM,AGED 54 YEARS,
S/O.LATE S.V.SHESHADRI,FLAT NO.8, GERMINI BUILDING,
PESTOM SAGAR ROAD NO.2, CHEMBUR, MUMBAI - 400 089.**
- 2. TOLANI SHIPPING (SINGAPORE) PTE. LTD.,
7 TEMASEK BOULEVARD, 28-03 SUNTECH TOWER - I,
SINGAPORE- 038987
REPRESENTED BY DULY AUTHORIZED POWER OF ATTORNEY,
MR.SHESHADRI VENKATACHALAM,AGED 54 YEARS,
S/O.LATE S.V.SHESHADRI, FLAT NO.8, GEMINI BUILDING,
PESTOM SAGAR ROAD NO.2, CHEMBUR, MUMBAI - 400 089.**

**BY SRI.B.RAMAN PILLAI,SENIOR ADVOCATE
ADVS. SRI.R.ANIL
SRI.M.K.SUMODH
SRI.SUJESH MENON V.B.
SRI.T.ANIL KUMAR
SRI.MANU TOM
SRI.THOMAS ABRAHAM (NILACKAPPILLIL)**

RESPONDENT/COPMPLAINANT:-

**STATE
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**

**BY DIRECTOR GENERAL OF PROSECUTION SRI.ASAF ALI
BY PUBLIC PROSECUTOR SRI.C.RASHEED**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 18-08-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEX A.** THE TRUE COPY PHOTOSTAT COPY OF THE DULY NOTARIZED POWER OF ATTORNEY.
- ANNEX A1.** THE TRUE COPY PHOTOSTAT COPY OF THE NOTARIZED POWER OF ATTORNEY.
- ANNEX B.** THE TRUE COPY OF THE ORDER IN CMP.2201/12 OF THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE AMBALAPUZHA DATED 09.04.2012.
- ANNEX C.** THE TRUE COPY OF THE ORDER DATED 25.01.2013 OF THE JFCM, AMBALAPUZHA.
- ANNEX D.** THE TRUE COPY OF THE PETITION FILED BEFORE THE HON'BLE JFCM, AMBALAPPUZHA, DATED 18.03.2013.
- ANNEX E.** THE TRUE COPY OF THE ORDER OF THE JFCM, AMBALAPUZHA DATED 28.05.2013.
- ANNEX F.** THE TRUE COPY OF THE ORDER IN CRL.M.C.3594/13 OF THIS HON'BLE COURT DATED 26.09.2013.
- ANNEX G.** CERTIFIED COPY OF THE ORDER IN CMP 1979/13 OF THE JFCM, AMBALAPUZHA DATED 29.11.2013.
- ANNEX H.** THE TRUE COPY OF THE EXTRACT OF FOREIGN EXCHANGE CONTROL REGULATION ACT.

RESPONDENT(S)' ANNEXURES: NIL

/TRUE COPY/

P.A.TO JUDGE

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P.UBAID, J.

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Crl.M.C.No.391 of 2014

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Dated this the 18th day of August, 2015

ORDER

This application is to quash an objectional condition imposed by the Court below for releasing a property under Section 451 Cr.P.C. As per the order in CMP No.2201 of 2012 dated 9.4.2012, the Court below imposed many conditions including a condition directing the petitioners to furnish bank guarantee for Rs.5 Crores. Thereafter, the petitioners filed CMP No.1979 of 2013 for modification. In the said proceeding, the Court below directed the petitioners to make fixed deposit. The main prayer, to modify the objectional condition was not allowed. The aggrieved petitioners are now before this Court. Pending this proceeding, I directed an enquiry into the submissions made by the petitioners that they have already compensated the victims adequately. The report submitted by the police as directed by the Court shows that the petitioners have already made payment of Rs.2.04 Crores as compensation to the victims. The victims include the legal heirs of the deceased, and the boat owners. In such a situation, I feel it appropriate to modify the

condition directing bank guarantee for a huge amount. I feel that a further direction to the petitioners to deposit an amount of Rs.1 Crore, inclusive of the amount of Rs.40 lakhs already deposited in Court, in lieu of the condition directing bank guarantee will suffice.

The Crl.M.C. is accordingly allowed, modifying the objectional condition, that in lieu of the direction to furnish bank guarantee, the petitioners shall make a fixed deposit of Rs.60 lakhs in the name of the trial court in a Nationalised Bank, subject to periodic renewal. Orders regarding withdrawal of amount shall be passed subject to the final result of the main proceeding in the trial court. The petitioners are permitted to carryout necessary repairs to the boat, without in any manner violating the conditions imposed by the Court below.

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Sd/-
P.UBAID
JUDGE

//TRUE COPY//

P.A. TO JUDGE