

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 20TH DAY OF MARCH 2015/29TH PHALGUNA, 1936

Crl.MC.No. 1595 of 2015 ()

CRIME NO. 368/2011 OF CHOMBALA POLICE STATION , KOZHIKODE

PETITIONER(S)/ACCUSED:

**ARAVINDAKSHAN.K.K
S/O. KUMARAN, KIZHAKE KUNIYIL HOUSE, KAYAPANICHI
VATAKARA.**

**BY ADVS.SRI.SUNIL NAIR PALAKKAT
SRI.K.N.ABHILASH**

RESPONDENT(S)/STATE AND COMPLAINANT:

- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. STATION HOUSE OFFICER,
VADAKARA POLICE STATION, KOZHIKODE- 673513.**
- 3. THE DISTRICT COLLECTOR,
KOZHIKODE DISTRICT, KOZHIKODE-673001.**

R BY PUBLIC PROSECUTOR SMT. P. MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20-03-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONERS ANNEXURES:

- A1: THE TRUE COPY OF THE FIR DATED 30.7.2011 NO.368 /11 OF THE
CHOMBALLA POLICE STATION**
- A2: THE TRUE COPY OF THE FINAL REPORT IN CRIME NO.368/2011 OF THE
CHOMBALA POLICE STATION ON 19.7.2012**
- A3: TRUE COPY OF THE ORDER DATED 27.5.2013 IN CMP 1157/13 OF THE JFCM
VATAKARA**

RESPONDENTS ANNEXURES: NIL

/TRUE COPY

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 1595 of 2015

Dated this the 20th day of March, 2015.

O R D E R

The petitioner herein claims to be the registered owner of the vehicle No. KL11 J 7512 seized by the police in crime No.368 of 2011 of the Chombala Police Station, registered under the provisions of the Kerala Protection of River Banks and Regulation of Removal of Sand Act (Sand Act). The fact of seizure was reported by the District Collector. The police waited for action by the District Collector on the report. Seizure of property was made on 30.7.2011. On 19.7.2012 the police referred the crime, and submitted final report accordingly in the court, on the ground that the District Collector did not initiate any action on the report submitted by the police. In such a circumstance the petitioner filed application before the Judicial First Class Magistrate Court, Vadakara for custody of the vehicle under Section 452 Cr.P.C. When it came up for hearing, the learned counsel submitted that it is not pressed. The application (C.M.P No.1157 of 2013)

was accordingly dismissed. Now the petitioner is aggrieved. Of course, it is not known what exactly is his grievance. It is also not known why he did not press the claim for the property before the learned Magistrate. Anyway, he now seeks a permission to make application afresh, and also a direction to the District Collector to dispose of the proceedings if any, initiated by him on the police report.

2. It is not known whether the District Collector has initiated any action on the police report regarding seizure of the petitioner's vehicle. Anyway, the crime now stands referred by the police. If the Executive Authority has not initiated any action under Section 23A (3) and (4) of the Sand Act, the vehicle will have to be released to the petitioner, when the crime stands referred by the police. The petitioner can very well make a fresh application before the learned Magistrate for custody of the vehicle. If such an application is made, the property will have to be released to the petitioner on appropriate reasonable conditions, if he is the registered owner, of course subject to confiscation orders, if any, passed in the crime by the Executive Authority under Section 23A (4) of the Sand Act.

With these observations, this Crl.M.C is closed.

P.UBAID,
JUDGE

sab