

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

TUESDAY, THE 11TH DAY OF AUGUST 2015/20TH SRAVANA, 1937

Crl.MC.No. 135 of 2012

**CMP 2090/2011 of J.M.F.C.-I, ALUVA IN
CRIME NO. 3376/2011 OF ALUVA EAST POLICE STATION**

PETITIONER:

**ALI, AGED 49 YEARS,
S/O.BEERAN, THANAKKATTIL HOUSE,
PUKKATTUPADI, EDATHALA, ALUVA-683 561.**

**BY ADVS. SRI. C.ANILKUMAR (KALLESSERIL)
SRI. C.Y.VINOD KUMAR**

RESPONDENT:

**STATE OF KERALA,
(REP BY THE SUB INSPECTOR OF POLICE,
ALUVA EAST POLICE STATION IN CR.3376/2011
OF ALUVA EAST POLICE STATION)
REPRESENTED BY THE STATE PROSECUTOR,
HIGH COURT OF KERALA , ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI. N. SURESH

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 11-08-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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K.P. JYOTHINDRANATH, J.

Crl.M.C.No.135 of 2012

Dated this the 11th day of August, 2015

ORDER

This is an application filed under Section 482 of the Code of Criminal Procedure.

2. The case of the petitioner is that, he is a business man. On 22.11.2011 at 12'O clock, Cigarettes and beedy worth Rs. 80,000/- were seized from his licensed shop and he was charge sheeted under Section 118(i) of Kerala Police Act. Seized articles produced before the Court. An application under Section 451 of the Code of Criminal Procedure moved before the Court for release of the same. The said application was dismissed stating that "it is not proper to release the articles as the same will affect the future of young children".

3. The counsel for the petitioner submitted before this Court that there is no total ban in our country

regarding Cigarettes and tobacco products. But surely, reasonable restrictions are therein. The prosecutor vehemently opposed the releasing of the article. It is submitted that it may have been damaged and if damaged goods are used, it will be more injurious.

4. The Police seized the articles and produced the same before the Court. It appears that so far it is not dealt as a perishable article by the Court. After considering the fact that when the petitioner's application is dismissed under Section 451 of the Cr.P.C., the only option available for the petitioner is to approach this Court especially, when he is a party in that case. Considering the totality of the case the following order passed:

The article shall be released to the petitioner on executing a bond for ₹80,000/- undertaking to produce the same as and when required by the Court. Before releasing the same it shall be photographed and a copy

of the same shall be kept in the file. The photograph shall be taken in the presence of the Chief Ministerial Officer of the Court surely the expense for the same shall be met by the petitioner.

Thus, the petition is allowed on the above terms.

Sd/-

**K.P. JYOTHINDRANATH
JUDGE**

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