

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

Crl.MC.No. 1914 of 2015

CRIME NO. 257/2015 OF AREACODE POLICE STATION, MALAPPURAM DISTRICT

PETITIONER(S)/ACCUSED :

**MUJEEB RAHMAN, AGED 41 YEARS,
S/O.AHAMMED, KOLOTHUMTHODI HOUSE, KUNIYIL,
KEEZHUPARAMBU, MALAPPURAM DISTRICT.**

BY ADV. SRI.BABU S. NAIR

RESPONDENT(S)/STATE & COMPLAINANT :

- 1. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI -682 031.**
- 2. THE SUB INSPECTOR OF POLICE,
AREACODE POLICE STATION, MALAPPURAM DISTRICT, PIN-673 638.**

BY PUBLIC PROSECUTOR SMT.S.HYMA

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 04-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

ALEXANDER THOMAS, J.

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Crl.M.C.No.1914 of 2015

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Dated this the 4th day of June, 2015

ORDER

The prayer in the above Crl.M.C. is as follows:

“.....to direct the 2nd respondent to report the seizure of vehicle bearing registration No.KL-18A/5852 to the J.F.C.M.-I, Manjeri and the learned Magistrate may be directed to dispose of the application for interim custody of the vehicle, within a time frame, without any delay, in the interests of justice.”

2. It is averred that the petitioner's vehicle was seized by the 2nd respondent on the allegation that it was used for illegal transportation of river sand. Petitioner alleges that the seizure itself is illegal as the petitioner was having a valid permit for the transportation of sand. After seizure, the 2nd respondent has registered Annexure A, Crime No. 257/2015 of Areacode Police Station alleging offences under Section 379 IPC read with Sections 20 and 23 of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001. That though a crime was registered, the petitioner cannot even move for interim custody of the vehicle before the Judicial First Class Magistrate Court-I, Manjeri, as the

seizure mahazar and connected records have not been forwarded to the learned Magistrate. On this basis that the petitioner has sought the aforementioned directions.

3. Heard Sri.Babu S.Nair, learned counsel for the petitioner and the learned Public Prosecutor appearing for the respondents.

4. This Court has held in the reported decisions in the case Asharaf v. Station House Officer reported in 2015(2) KLT 224, that the interim release of the custody seized under provisions of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001 could be considered on the claimant concerned depositing cash amount of 30 % of the value of the vehicle assessed by the Assistant Motor Vehicle Inspector concerned and on furnishing appropriate security for 70 % of the value of the vehicle so assessed etc.

5. In the light of the above said aspects, it is ordered that in case the 2nd respondent has not so far forwarded the report on the seizure of the petitioner's vehicle bearing Registration No.KL-18A/5852 in regard to its involvement in Crime No.257/2015 of Areacode Police Station, then the 2nd respondent shall do so forthwith by sending the necessary report on such seizure to the

said jurisdictional Magistrate Court concerned. The petitioner will be at liberty to file appropriate application for interim custody of the vehicle, which may be filed before the jurisdictional Magistrate Court concerned and upon which, the learned Magistrate concerned shall afford reasonable opportunity of being heard on both sides and take a decision thereon in accordance with the legal principles laid down by this Court in the case Asharaf v. Station House Officer reported in 2015 (2) KLT 224 and in accordance with law.

With these observations and directions the Crl.M.C.stands finally disposed of.

Sd/- ALEXANDER THOMAS, JUDGE

MJL

