

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

Cr1.MC.No. 2106 of 2015

AGAINST THE ORDER IN CMP 368/2015 of JUDICIAL FIRST CLASS MAGIST.
COURT, ANGAMALY (TEMPORARY) DATED 26-03-2015

PETITIONER/ACCUSED:

JAYESH, AGED 32 YEARS,
S/O.CHANDRAN, NEDUMPILLY (H), CHEMBUCHIRA,
MATTATHUR VILLAGE, THRISSUR.

BY ADV. SRI.P.JINISH PAUL

RESPONDENTS/RESPONDENTS:

1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.
2. REGIONAL TRANSPORT OFFICER,
OFFICE OF THE REGIONAL TRANSPORT OFFICER,
THRISSUR.

BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 07-04-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 2106 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE-1 COPY OF THE IDENTITY CARD FOR PERSONS WITH
DISABILITIES ISSUED BY THE GOVT.OF KERALA TO THE PETITIONER

ANNEXURE-2 COPY OF THE RECEIPT OF PAYMENT DATED 19.02.2015

ANNEXURE-3 COPY OF THE PETITION OF CMP 368/2015

ANNEXURE-4 COPY OF TAX RECEIPT OF THE VEHICLE

ANNEXURE-5 COPY OF POLLUTION CONTROL CERTIFICATE

ANNEXURE-6 COPY OF BILL FOR FITTING THE STANDARD ELECTRONICS
FARE METER

ANNEXURE-7 COPY OF THE IMPUGNED ORDER DATED 26.03.2015 IN CMP
368/15

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.2106 of 2015

Dated this the 7th day of April, 2015

O R D E R

The petitioner herein claims to be the owner of the vehicle No.KL8 AX 2386 involved in crime No.198/2015 of the Nedumbassery Police Station, registered under Section 20(b) (ii)A of the NDPS Act. It is submitted that the quantity of ganga involved in the crime is only 100 gms. The prosecution case is that the petitioner was found transporting the said quantity of ganga. The vehicle was intercepted by the police, the small quantity of ganga along with the vehicle was seized by the Sub Inspector, the petitioner was arrested on the spot, and the crime was registered against him. The petitioner made an application before the Judicial First Class Magistrate Court, Angamally for interim custody of the vehicle under Section 451 of the Code of Criminal Procedure as C.M.P No.368/2015. The learned Magistrate disallowed the request on the ground that the petitioner does not have any document to prove his ownership over the vehicle. The petitioner's grievance is that he has

already made an application before the Regional Transport Authority, Thrissur for change of ownership. But the Regional Transport Officer has not so far taken any decision on his request. If such decision is delayed, he complains, serious hardship and loss will be caused to him. He is not in a position to produce any document in court to substantiate his claim over the vehicle. The order passed by the learned Magistrate on 26.3.2015 is under challenge.

2. Pending this proceeding, I required the learned Public Prosecutor to report on instructions whether the application filed by the petitioner before the Regional Transport Officer for change of ownership of the vehicle is pending. The learned Public Prosecutor submits that the said application is still pending. Of course it is not known why it is still pending. Change of ownership and consequent entries in the reregistration certificate does not involve any long drawn procedure. The Regional Transport Officer will have to take a decision without any delay on the petitioner's request. Anyway, the learned Magistrate can call for a report from the Regional Transport Officer, and if there is report that ownership stands changed in the name of the petitioner, appropriate orders on

merits can be passed by the learned Magistrate. If the vehicle can be released to him pending the proceedings, the learned Magistrate can impose appropriate reasonable conditions. The petitioner cannot wait indefinitely to get the vehicle, till decision is leisurely taken by the Regional Transport Officer.

3. In the result, this Criminal Miscellaneous Case is disposed of as follows:

a) The impugned order passed by the court below in C.M.P No.368/2015 will stand set aside and the application will stand revived.

b) The learned Magistrate will call for a report from the Regional Transport Officer, Thrissur regarding the action taken on the petitioner's application to record change of ownership of the vehicle No. KL8 AX 2386.

c) If there is a report that the ownership stands changed in the name of the petitioner, the learned Magistrate will consider the application on merits, and if it is found that the petitioner is the right person to claim interim custody and there is no other factual or legal objection to such release, the

vehicle can be released to the petitioner on appropriate reasonable conditions.

d) The learned Magistrate will obtain such report and decide the claim within one month from the date of receipt of a copy of the order.

e) The learned Public Prosecutor will communicate a copy of this order to the Regional Transport Officer with instruction to act on the petitioner's request immediately.

**P.UBAID
JUDGE**

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