

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

Crl.MC.No. 2141 of 2015 ()

AGAINST THE ORDER IN CMP 7715/2014 of J.M.F.C.,MALAPPURAM DATED
19-02-2015

CRIME NO. 145/2014 OF VAZHAKKAD POLICE STATION , MALAPPURAM

PETITIONER(S)/PETITIONER/PETITIONER:

MUNAVAR HASEEM.A
S./O UNNIMOYEN, EDAKKATHRAMMAL, CHERUVAYOOR
MALAPPURAM DISTRICT.

BY ADV. SRI.P.M.RAFIQ

RESPONDENT/RESPONDENT:

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.

BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE.P

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
10-04-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 2141 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A: COPY OF THE ORDER IN CMP NO.7715/2014 DATED 19.2.2015 OF
THE COURT OF JUDICIAL MAGISTRATE OF FIRST CLASS, MALAPPURAM IN
CRIME NO.145/2014 OF VAZHAKKAD POLICE STATION.

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**Crl.M.C No.2141 of 2015**  
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Dated this the 10th April, 2015

ORDER

The petitioner is the registered owner of the vehicle No.KL-10-Y/3179 involved in Crime No.145 of 2014 of the Vazhakkad Police Station registered under the provisions of the Kerala Protection of River Banks and Regulation of River Sand Act. Pending investigation, he made an application before the learned Judicial First Class Magistrate, Malappuram for interim custody of the vehicle. The learned Magistrate granted interim custody of the vehicle on certain conditions. He is really aggrieved by the third condition by which he is directed to furnish bank guarantee for ₹51,000/-. On a perusal of the impugned order and on hearing both sides, I find that this condition requires interference. In a post amendment decision, this Court has clarified the legal position after the introduction of Section 23A in the Kerala Protection of River Banks and Regulation of Removal of Sand Act. The new provision gives discretion to Judicial Magistrates in the matter of

imposing appropriate conditions. Such conditions must be reasonable, rational and practical. In this case, there is already a direction to make cash deposit and also to execute bond. Those conditions will in fact suffice in the particular facts of the case. It is not known why the petitioner should furnish bank guarantee when there is already a direction to execute bond and to make cash deposit.

In the result, this petition is allowed.. The objectionable condition No.3 imposed by the court below as per the order dated 19.2.2015 in C.M.P. No.7715 of 2014 directing the petitioner to furnish bank guarantee will stand set aside.

Sd/-
P.UBAID
JUDGE

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/True copy/

P.S to Judge