

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

Crl.MC.No. 2296 of 2015 ()

AGAINST THE ORDER IN CMP 7620/2014 of J.M.F.C.-V,KOZHIKODE
CRIME NO. 891/2014 OF NALLALAM POLICE STATION , KOZHIKODE

PETITIONER(S)/ACCUSED:

JASHEEMUDHEEN
S/O.MUHAMMED, NAJA MANZIL, THAZHEKODE VILLAGE
P.O.MUKKAM, KOZHIKODE.

BY ADVS.SRI.K.M.FIROZ
SMT.M.SHAJNA
SRI.S.KANNAN

RESPONDENT(S)/STATE & THE COMPLAINANT:

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1. THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, KOCHI - 682 031.
 2. THE SUB INSPECTOR OF POLICE
NALLALAM POLICE STATION, KOZHIKODE -673 008.

R1 & R2 BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
08-04-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 2296 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE-A1: A TRUE COPY OF THE ORDER DATED 20.12.2014 ISSUED BY
THE JUDICIAL FIRST CLASS MAGISTRATE COURT - V, KOZHIKODE IN C.M.P
NO.7620/2014

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**Crl.M.C No.2296 of 2015**  
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Dated this the 8th April, 2015

ORDER

The petitioner herein is involved as accused in a crime registered by the Nallalam Police under Section 379 of Indian Penal Code and also under Sections 20 and 23 of the Kerala Protection of River Banks and Regulation of Removal of Sand Act. The petitioner's vehicle with a load of river sand was seized by the police in the process of transportation of river sand illegally. At the time of arrest, the police also seized the petitioner's driving and mobile phone. He made an application before the Judicial First Class Magistrate-V, Kozhikode for interim custody of his licence and mobile phone under Section 451 Cr.P.C. The learned Magistrate released the driving license on certain conditions, but declined the request to release the mobile phone. The said order is under challenge and it is sought to be set aside.

2. On hearing both sides, I find that the petitioner's request for mobile phone was wrongly disallowed by the

learned Magistrate. It is not known how he will commit such an offence with a mobile phone, or how the mobile phone will prove the prosecution case that the petitioner was found transporting river sand illegally in his vehicle. The reason stated by the police to oppose the request, and the reason stated by the learned Magistrate to decline the request cannot be accepted in law. The impugned order does not contain any satisfactory explanation why the request for mobile phone was declined.

In the result, this petition is allowed. That part of the impugned order of the court below in C.M.P. No.7620 of 2014 declining the petitioner's request to release his mobile phone will stand set aside. The court below is directed to release the petitioner's mobile phone, seized by the police from his possession.

Sd/-
P.UBAID
JUDGE

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/True copy/

P.S to Judge