

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

TUESDAY, THE 28TH DAY OF APRIL 2015/8TH VAISAKHA, 1937

Crl.MC.No. 2605 of 2015 ()

**AGAINST THE ORDER IN CMP 682/2015
OF JUDICIAL FIRST CLASS MAGISTRATE COURT, MALAPPURAM DATED 30-03-2015**

PETITIONER/PETITIONER :

**SAFNAS
S/O. MOHAMMED,
KARUVAKKUNNAN HOUSE, VADAKKUMURI
OORGATTIRI P.O., MALAPPURAM DISTRICT**

**BY ADVS.SRI.P.SAMSUDIN
SRI.JITHIN LUKOSE**

RESPONDENT/RESPONDENT :

**STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**

BY PUBLIC PROSECUTOR SRI. A.J. JOSE AEDAIDI

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 28-04-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Mn

...2/-

Crl.MC.No. 2605 of 2015 ()

APPENDIX

PETITIONERS' EXHIBITS :

**ANNEXURE A1- CERTIFIED COPY OF THE ORDER DATED 30/03/2015 IN CMP
NO. 682/2015 ON THE FILED OF JFCM COURT, MALAPPURAM.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

ANIL K.NARENDRA, J.

Crl.M.C.No. 2605 of 2015

Dated this the 28th day of April, 2015

ORDER

The petitioner has filed this Criminal Miscellaneous Case seeking to quash order dated 30.03.2015 of the Judicial First Class Magistrate Court, Malappuram in C.M.P. No. 682/2015 in Crime No. 1308/2014 of Kondotty Police Station. Goods carriage bearing registration No.KL-18-B-300 owned by the petitioner is taken into custody by the police during December 2014, alleging contravention of the provisions of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2002 and the Rules made thereunder.

2. A crime has been registered against the driver of the vehicle. The petitioner applied before the Magistrate Court seeking interim custody of the vehicle by filing an application under Section 457 of the Code of Criminal Procedure which

Crl.M.C.No. 2605 of 2015

resulted in Annexure A1 order passed by the court below. The petitioner is aggrieved by condition No. 3 of Annexure A1 order by which he has been directed to produce bank guarantee for Rs. 53,000/- in order to release the vehicle in question. Going by the averments in the Crl. M.C., the vehicle in question was valued at Rs. 75,000/- by the Assistant Motor Vehicles Inspector. The conditions imposed by the court below in Annexure A1 order reads as follows:-

- 1) Petitioner shall execute a bond of Rs. 75,000/- with two solvent sureties each for the like sum.
- 2) Petitioner shall deposit Rs. 22,000/- in the court.
- 3) Petitioner shall produce security of bank guarantee for Rs. 53,000/-
- 4) Petitioner shall produce photograph and CD of the vehicle.
- 5) Station house officer is directed to prepare a panchanama of the vehicle
- 6) Petitioner shall produce attested true copy of RC
- 7) Petitioner shall produce the vehicle before the court as and when directed.

3. Heard the learned counsel for the petitioner and the learned Public Prosecutor appearing for the respondent.

4. A reading of Annexure A1 order passed by the court below would show that after considering the rival contentions, the court below has ordered interim custody of the vehicle in question to the petitioner after imposing certain conditions. The conditions imposed by the court below cannot be termed either arbitrary or illegal, warranting interference of this Court under Section 482 of the Code of Criminal Procedure. Considering the facts and circumstances of the case and also taking note of condition No. 1 imposed by the court below in Annexure A1 order, I deem it appropriate to modify the condition Nos. 2 and 3 in Annexure A1 order as follows:-

- i) The petitioner shall deposit a sum of Rs. 30,000/- (Rupees Thirty Thousand Only) in the court.
- ii) The petitioner shall furnish adequate security for the balance sum of Rs. 45,000/- (Rupees Forty Five Thousand Only) to the satisfaction of the court below.

Crl.M.C.No. 2605 of 2015

On satisfying the above conditions as well as condition Nos. 1 and 4 to 7 in Annexure A1 order, the petitioner shall be entitled for interim custody of the vehicle.

The Crl.M.C. is disposed of as above.

**ANIL K.NARENDRAN,
JUDGE**

DCS