

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 10TH DAY OF JUNE 2015/20TH JYAISHTA, 1937

Crl.MC.No.2766 of 2015

**CMP NO.606/2015 of ADDITIONAL CHIEF JUDICIAL MAGISTRATE COURT,
ERNAKULAM.
CRIME NO.517/2015 OF ERNAKULAM TOWN NORTH POLICE STATION,
ERNAKULAM.**

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PETITIONER:

**GIGY K MATHEW,S/O.MATHU,KOLOTHUMKUZHI HOUSE,
CHOORAKODU KARA,PATTIMATTOM VILLAGE,
KUNNATHUNADU TALUK,ERNAKULAM DISTRICT.**

**BY ADVS.SRI.ANVER BASHEER
SRI.T.E.JSMAIL**

RESPONDENT:

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM,COCHIN-31.**

BY PUBLIC PROSECUTOR SMT.S.HYMA.

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 10-06-2015, ALONG WITH CRL.MC NO.2768/2015 AND CRL. M.C
NO.2769/2015 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

pk

Crl.MC.No.2766 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

**ANNEXURE A1.COPY OF THE ORDER DATED 16.04.15 IN CMP 606/15 OF THE
HONOURABLE ADDITIONAL CHIEF MAGISTRATE COURT,
ERNAKULAM IN CRIME NO.517/15 OF ERNAKULAM TOWN
NORTH POLICE STATION, ERNAKULAM DISTRICT.**

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

ALEXANDER THOMAS, J.

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Crl.M.C.Nos.2766, 2768 & 2769 of 2015

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Dated this the 10th day of June, 2015

ORDER

The prayers in these Criminal Miscellaneous Cases are as follows:

Crl.M.C.No.2766/2015:

“..... to grant the interim custody of the vehicle bearing registration No.KL-40C-6473. So as to secure the ends of justice.”

Crl.M.C.No. 2768/2015:

“..... to grant the interim custody of the vehicle bearing registration No.KL-40C-6473. So as to secure the ends of justice.”

Crl.M.C.No. 2769/2015:

“..... to grant the interim custody of the vehicle bearing registration No.KL-40B-3916. So as to secure the ends of justice.”

2. It is common ground that the vehicles in question were seized by the Station House Officer concerned in relation to the alleged commission of offences under Sec.3 of the Kerala Conservation of Paddy Land and Wet Land Act, 2008, Sec.21 of the Mines and Minerals (Development and Regulation) Act, 1957 and Sec.120(e) of the Kerala Police Act. It is indisputable that the Station

House Officer has no jurisdiction to seize vehicles under the aforementioned Paddy Land and Wet Land Act.

3. It is submitted by the learned Public Prosecutor that necessary report has already been furnished about the factum of seizure of the vehicles in these cases to the jurisdictional Magistrate concerned.

4. In all these cases the petitioners have submitted necessary application before the jurisdictional Magistrate concerned for interim release of the vehicles and the same has been refused as per the impugned orders on the ground that the District Collector is invested with the power to confiscate the vehicle in respect of the offences involved under the Paddy Land and Wet Land Act and that the Collector is the proper authority to consider the matter.

5. But it is common ground that the Station House Officer has no jurisdiction to initiate any proceedings under the Paddy Land and Wet Land Act as the power thereunder is vested only with the competent Revenue officials concerned. In this view of the matter, the impugned order in each of these cases are set aside and the matter is remitted back to the jurisdictional Magistrate concerned for fresh decision after hearing both sides. The decision in this regard shall be taken by the learned Magistrate within a period of

two weeks from the date of production of a certified copy of this order. The prayer made in the application will be considered on merits by the learned Magistrate. The learned counsel for the petitioners submits that the petitioners will comply with any reasonable conditions that may be imposed by the learned Magistrate for regulating the issue of interim custody of the vehicles in question.

The Criminal Miscellaneous Cases are disposed of as above.

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///True copy///

Sd/-
ALEXANDER THOMAS, JUDGE

P.S. to Judge