

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 16TH DAY OF JUNE 2015/26TH JYASHTA, 1937

Crl.MC.No. 3420 of 2015 ()

CRMP 459/2015 of JUDICIAL FIRST CLASS MAGISTRATE COURT-I MUVATUPUZHA
CRIME NO. 2/2015 OF MOOVATTUPUZHA EXCISE RANGE OFFICE, ERNAKULAM

PETITIONER/ACCUSED :

NISAR SIDIQUE, S/O SIDIQU,
PAMPUTHOCKIMKKAL HOUSE,
KUMMANKALLU KARA, THODUPUZHA EAST P.O.

BY ADV. SRI.P.V.VIBIN

RESPONDENTS/STATE & COMPLAINANT:

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- 1. STATE OF KERALA**
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM 682 031
 - 2. EXCISE INSPECTOR**
MUVATTUPUZHA EXCISE RANGE, MUVATTUPUZHA

R1 & R2 BY PUBLIC PROSECUTOR SMT. S. HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 16-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

bp

Crl.MC.No. 3420 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE A: THE TRUE COPY OF THE REGISTRATION CERTIFICATE OF
MOTORCYCLE BEARING REGISTRATION NO.KL-38D 6456-BAJAJ
PULSAR 150**

**ANNEXURE B: CERTIFIED COPY OF THE ORDER DATED 25/3/2015 IN CRL.M.P.
NO 459/15 PASSED BY THE JUDICIAL 1 CLASS MAGISTRATE I,
MUVATTUPUZHA IN NDPS CRIME NO.2/15 OF EXCUISE RANGE
OFFICE, MUVATTUPUZHA.**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.S. TO JUDGE

bp

ALEXANDER THOMAS, J.

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Crl.M.C.No. 3420 of 2015

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Dated this the 16th day of June, 2015

O R D E R

The order under challenge is Anx.B order rendered on 25.3.2015 by the Judicial First Class Magistrate's Court-I, Muvattupuzha on Criminal Miscellaneous Petition No.459/2015 filed in NDPS Crime No.2/2015 of Excise Inspector, Muvattupuzha. By the said impugned order, the learned Magistrate refused the plea of the petitioner for interim custody of the vehicle in question (motor cycle) said to have been seized from the petitioner in connection with a crime registered for offence under Sec.20(b)(ii)A and Sec.25 of the NDPS Act, wherein the petitioner is the accused. The learned Magistrate refused the plea for interim custody of the seized motor cycle on the ground that the very same motor cycle was involved earlier in a crime, in which, the very same petitioner was the accused for an offence under the NDPS Act. It is primarily for this reason that the court below has refused the plea made by the petitioner. It is brought to notice that the first crime, in which, the

petitioner was the accused for the offence under the NDPS Act, the quantity of ganja allegedly seized was 50 gm. and in the instant second crime the quantity of ganja seized from the petitioner is alleged to be 125 gm. The interim custody of the motor cycle in question was released to the petitioner in the proceedings initiated pursuant to the first crime. It is thereafter the said vehicle is said to have allegedly involved in the second crime. Under the circumstances, it cannot be said that the view taken by the learned Magistrate in refusing the plea of interim custody of the vehicle is illegal or perverse or vitiated by any jurisdictional infirmity. It is also pointed that the investigation has not so far been completed. In the light of these aspects this Court is not inclined to exercise its discretionary jurisdiction conferred as per Sec.482 of the Code of Criminal Procedure. However, it is observed that after the investigation is over, it will be open to the petitioner to make appropriate application seeking interim custody of the vehicle, upon which, it is for the court below concerned to consider that plea after hearing the petitioner and the Public Prosecutor concerned, in accordance with law. It is made clear that this Court has not expressed any opinion on the merits of the claim that may be made

by the petitioner in such future eventuality and it is entirely within the province of the court below concerned to consider such plea in accordance with law.

The Crl.M.C. stands finally disposed of as above.

sd/-
ALEXANDER THOMAS, JUDGE
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///True copy///

P.S. to Judge