

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 23RD DAY OF JUNE 2015/2ND ASHADHA, 1937

Crl.MC.No. 3696 of 2015

**CC.22/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-IX, ERNAKULAM
CRIME NO. 200/2015 OF CHERANELLOOR POLICE STATION , ERNAKULAM**

PETITIONER(S)/CLAIM PETITIONER :

**ARSHAD,
S/O. AYOOB, POOVATHINKAL HOUSE, NORTH VAZHAKKULAM,
KUNNATHUNADU TALUK, ERNAKULAM DISTRICT.**

**BY ADVS.SRI.ANIL K.MOHAMMED
SRI.V.S.MANSOOR**

RESPONDENT(S)/COMPLAINANT:

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

BY PUBLIC PROSECUTOR SMT.S.HYMA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 23-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

Crl.MC.No. 3696 of 2015

APPENDIX

PETITIONERS' ANNEXURES

**ANNEXURE A: TRUE COPY OF ORDER IN CMP.61/15 OF JUDICIAL FIRST CLASS
MAGISTRATE COURT-IX ERNAKULAM, WITH PHOTOCOPY.**

RESPONDENTS' ANNEXURE

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

ALEXANDER THOMAS, J.

=====

Crl.M.C.No.3696 of 2015

=====

Dated this the 23rd day of June, 2015

O R D E R

The petitioner's vehicle was seized on 18.3.2015 by the Police alleging that his vehicle, along with certain other vehicles, engaged in unauthorised reclamation of paddy field. Based on the petitioner's application, interim custody of the vehicle was granted to him by imposing the condition that the original registration certificate should be deposited in the court below. The petitioner had deposited the original registration certificate of the vehicle before the court below and he then secured the benefit of interim custody of his vehicle. It is pointed out that the final report in this case was filed, which has now been taken on the file of the Judicial First Class Magistrate's Court-IX, Ernakulam, as Calendar Case, C.C.No. 22/2015.

2. The petitioner submitted Crl.M.P.No.61/2015 in C.C.No. 22/2015 praying that the original registration certificate retained by the court below may be returned to the petitioner as the financial

institution concerned which has agreed to arrange re-finance for his vehicle, is insisting for the production of the original registration certificate for considering the request for re-finance. The said plea made by the petitioner was dismissed as per Anx.A order dated 12.5.2015 in Crl.M.P.No.61/2015 in C.C.No.22/2015 by the Judicial First Class Magistrate's Court-IX, Kunnumpuram, Ernakulam. The court below held that the final order with respect to the property can be passed only after the conclusion of the trial or after composition of the matter. That the matter has not been compounded or lawfully terminated and that therefore merely because the final report has been filed, interim custody would not become absolute and accordingly, dismissed the plea for release of the registration certificate. This order that is under challenge in this Crl.M.C.

3. Heard Sri.Anil.K.Muhammed, learned counsel for the petitioner and the learned Public Prosecutor appearing for the respondent State of Kerala.

4. The court below has not considered the specific plea in the background of the factual claim that the petitioner could not repay the entire amount to the financial institution availed for the

purchase of the vehicle in question and that the financial institution is insisting for production of the original registration certificate for considering the request for arranging the re-finance of the vehicle.

5. In the facts and circumstances of this case, it is ordered in the interest of justice as follows:

Anx.A order to the extent it is passed in Crl.M.P.No.61/2015 filed in C.C.No.22/2015 before the court below is set aside. Crl.M.P.No.61/2015 in that Calendar Case stands accordingly remitted back to the court below for consideration afresh. The petitioner will implead the financial institution concerned. The petitioner will also file an affidavit before the court below stating about the arrangements that have been made with the financial institution for getting re-finance and that they are insisting for production of the original registration certificate, etc. and necessary materials in that regard should also be made available along with that affidavit for the consideration of the court below, who will render a decision thereon without much delay.

With these observations and directions, the Crl.M.C. stands finally disposed of.

sdk+

///True copy///

P.S. to Judge

Sd/-

ALEXANDER THOMAS, JUDGE

