

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. 3753 of 2015 ()

**-----
CRL.MP. NO.136/2015 IN SC. NO.646/2013 OF ASSISTANT SESSIONS COURT,
KOTTARAKARA.**

.....

PETITIONER/CLAIM PETITIONER:

**P.T. GOPI, AGED 43 YEARS,
S/O.THANKAMANI ACHARI, PARAMBAKKATTIL HOUSE,
PALLARIMANGALAM KARA, POTHANIKADU VILLAGE,
KOTHAMANGALAM.**

**BY ADVS.SRI.K.S.RAJEEV (ALUVA),
SMT.DHANYA MOHAN.**

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
THROUGH SUB-INSPECTOR OF POLICE,
KOTTARAKARA POLICE STATION,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE.

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

rs.

Crl.MC.No. 3753 of 2015

APPENDIX

PETITIONER'S ANNEXURES:-

ANNEXURE A- TRUE COPY OF THE CRL.M.P. NO.136/2015 DATED 13.02.2015.

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

ALEXANDER THOMAS, J.

CrI.MC.No.3753 Of 2015

Dated this the 23rd day of June, 2015.

ORDER

It is stated that the petitioner herein had filed CrI.M.P.No.136/2015 dated 13.2.2015 before the Assistant Sessions Court, Kottarakkara praying for grant of interim custody of 19 grams of gold seized in connection with Crime No.1097/2012 of Kottarakkara Police Station alleging offences under Secs.413, 379 r/w 34 IPC. The petitioner was accused No.2 in the said proceedings which led to S.C.No.646/2013 on the file of the Assistant Sessions Court, Kottarakkara. It is stated that final report/charge sheet in the above matter to the extent it related against the petitioner was quashed by this Court in CrI.M.C.No.5053/2014, on the ground that prosecution allegation against the petitioner is highly improbable and false. It is further stated that the petitioner has now filed Anx-A claim petition dated 13.2.2015 claiming interim custody of the aforestated quantity of gold on the ground that seized article exclusively belong to him and it was seized from him. That the claim petition is not disposed of by the court below even after lapse of long period. It is contended that keeping

Crl.MC.No.3753 Of 2015

the claim petition without passing any orders thereon is against the well settled legal principles as in the celebrated case Sunderbhai Ambalal Desai v. State of Gujarat reported in 2003 (2) KLT 1089 (SC), wherein it was held that keeping the article seized by the police without passing any order on the application for interim custody of the article is against the object of the Act and that the very object can be achieved if there is proper supervision by the Registrar of the concerned High Court in seeing that the claim petitions are disposed of in time in any case not more than 15 days to one month. It is in the light of these aspects that the petitioner has filed this Crl.M.C seeking invocation of the inherent powers conferred on this Court under Sec.482 of the Cr.P.C with the prayer for a direction to the learned Assistant Sessions Court, Kottarakkara to dispose of Anx-A Claim Petition filed in S.C.No.646/2013 within 15 days.

2. Heard Sri.K.S.Rajeev, learned counsel for the petitioner and the learned Public Prosecutor appearing for the respondent-State of Kerala.

3. It has been held by the Apex Court as in celebrated case Sunderbhai Ambalal Desai v. State of Gujarat that keeping the articles seized by the police without passing any orders on the claim petition is

Crl.MC.No.3753 Of 2015

against the very object of the Act and the said object can be achieved if there is proper supervision by the Registrar of the High Court concerned in seeing that the claim petition is disposed of in time, at any rate, within an outer time limit of 15 days to one month. It has further been held in Snmate Basavva Kom Dyamangouda Patil v. State of Mysore reported in AIR 1977 SC 1749 that articles seized ought not to be retained in the custody of the court or of the police for any time longer than what is absolutely necessary. It is stated by the petitioner that Anx-A claim petition dated 13.2.2015 (C.M.P.No.136/2015) was filed before the Assistant Sessions Court, Kottarakkara praying for grant of interim custody of 19 gms of gold seized in connection with Crime No.1097/2012 of Kottarakkara Police Station in February 2015 itself and that no orders have been passed thereon. Under these circumstances, it is ordered in the interest of justice that keeping in view the legal principles laid down in the case Sunderbhai Ambalal Desai v. State of Gujarat and in the case Basavva Kom Dyamangouda Patil v. State of Mysore, if no orders have been passed in Anx-A Claim Petition, then the Assistant Sessions Court will take up the same for consideration and pass orders thereon in the light of the legal principles sell settled by the Apex Court in the case Sunderbhai Ambalal Desai v.

Crl.MC.No.3753 Of 2015

State of Gujarat and after affording a reasonable opportunity of being heard to the petitioner through his counsel, if any, and to the learned Public Prosecutor appearing for the respondent-State of Kerala without any further delay. The petitioner will produce a certified copy of this order before the court below on which date the court below will intimate the immediate date of hearing of Anx-A claim petition to both the petitioner through his counsel if any and to the prosecutor concerned and thereafter after granting reasonable opportunity of being heard to both sides, orders shall be passed by the learned Magistrate at least within a period of ten days thereafter.

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

ALEXANDER THOMAS,
Judge.

bkn/-