

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

Crl.MC.No. 4208 of 2014 (A)

**(AGAINST THE ORDER IN CMP 6075/2013 of J.M.F.C.-II, NEYYATTINKARA DATED
12-05-2014)**

PETITIONER/1ST ACCUSED:

**ALIYARUKUNJU, AGED 54 YEARS,
S/O. AHAMED KANNU, CHAMAVILA VEEDU, KOTTAPPURAM,
VIZHINJAM, NEYYATTINKARA, THIRUVANANTHAPURAM.**

BY ADV. SRI.SHAJIN S.HAMEED

RESPONDENTS/STATE & PETITIONER:

**1. STATE OF KERALA,
REPRESENTED BY THE DEPUTY SUPERINTENDENT OF POLICE,
CBCID, SPECIAL SQUAD, THIRUVANANTHAPURAM,
REPRESENTED THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

**2. K.P.SANKAR,
S/O. KESAVAN PILLAI, BRANCH MANAGER,
M/S. MUTHOOT MINI MUTUAL FUND, NEYYATTINKARA,
THIRUVANANTHAPURAM, PIN CODE-695121.**

**R2 BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR
R2 BY ADV. SRI.P.GOPINATH
R2 BY ADV. SRI.P.BENNY THOMAS
R2 BY ADV. SRI.JOSON MANAVALAN
BY PUBLIC PROSECUTOR, SMT. S. HYMA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
05-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 4208 of 2014 (A)

APPENDIX

PETITIONER'S EXHIBITS

- ANNEXURE A - PHOTOCOPY OF THE PETITION ALONG WITH ORDER DATED
11-06-1996 OF THE JUDICIAL 1ST CLASS MAGISTRATE-II,
NEYYATTINKARA.**
- ANNEXURE B - PHOTOCOPY OF THE ORDER DATED 20-05-2013 IN CMP NO.
5520/2012 OF THE JUDICIAL 1ST CLASS MAGISTRATE COURT-II,
NEYYATTINKARA.**
- ANNEXURE C - PHOTOCOPY OF THE ORDER DATED 12-05-2014 IN CMP NO.
6075/2013 IN C.C.NO. 3199/2013 OF THE JUDICIAL 1ST CLASS
MAGISTRATE-II, NEYYATTINKARA.**

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

DST

P. UBAID, J.

Crl.M.C.No.4208 of 2014

Dated this the 5th day of February, 2015

O R D E R

The petitioner herein is the first accused in C.C.No.3199/2013. What is under challenge here is an order passed by the learned Judicial First Class Magistrate, Neyyattinkara as a continuance of the earlier orders passed by the court under Section 451 Cr.P.C., releasing some gold ornaments to the 2nd respondent herein. The full first order made by the court under Section 451 Cr.P.C. is not seen produced. Annexure-B order produced before this Court is the continuation of the first order, and Annexure-C order is the last in the series, made under Section 451 Cr.P.C. Without challenging the first order under Section 451 Cr.P.C., the petitioner challenges the last one in the series. It is not known why he does not challenge the first order made by the court under Section 451 Cr.P.C. The impugned order in CMP No.6075/2013 is only a modification of earlier orders passed under Section 451 Cr.P.C. The properties were released to the 2nd respondent by the court on the finding

that the properties were in fact seized from his possession, and this order will definitely be subject to the final orders under Section 452 Cr.P.C. This is not a civil proceeding or proceeding under Section 452 Cr.P.C., where question of title or claim can be finally decided. Once, the trial court has taken a decision under Section 451 Cr.P.C., the aggrieved person will have to challenge the said order. Without challenging the said order, the petitioner challenges a modification order made by the court. This Crl.M.C. cannot be entertained.

In the result, this Crl.M.C. is dismissed in limine, without being admitted to files.

Sd/-

P. UBAID, JUDGE

sd