

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 20TH DAY OF AUGUST 2015/29TH SRAVANA, 1937

Crl.MC.No. 5671 of 2015 ()

CRMP 4657/2015 of JUDICIAL FIRST -II (FOREST OFFENCES),PUNALUR

PETITIONER/CLAIM PETITIONER :

**ROHINI, W/O.SASI,
ROHINI VILASOM, CHANDANAKKAVU,
THINGALKARIKKAM VILLAGE, KOLLA (DIST).**

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

RESPONDENT :

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

BY PUBLIC PROSECUTOR SMT. P. MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 20-08-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

bp

Crl.MC.No. 5671 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE A: A PHOTOCOPY OF REGISTRATION CERTIFICATE OF VEHICLE
BEARING NO. KL-25-A-8475.**

ANNEXURE B: A CERTIFIED COPY OF REPORT DATED 27.7.2015

**ANNEXURE C: A TRUE COPY FO ORDER DATED 5.8.2015 IN CRL. MP NO.4657/2015 OF
JUDICIAL FIRST CLASS MAGISTRATE COURT-II (FOREST OFFENCES),
PUNALUR.**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

ALEXANDER THOMAS, J.

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Crl.M.C No.5671 of 2015

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Dated this the 20th day of August, 2015

O R D E R

The order under challenge is at Anx.C dated 5.8.2015 rendered by the Judicial First Class Magistrate Court-II, (Forest offences), Punalur on C.M.P No.4657 of 2015 in O.R. No.4/2015 of Anchal Forest Range, Kollam whereby the request of the interim release of the vehicle seized in connection with the above said forest crime, has been denied on the ground that, in this case the seized article has neither been produced in court nor there is a report stating why the property was not produced in court and also due to the pendency of confiscation proceedings, etc.

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

3. It is pointed out that the factual finding in the impugned Anx.C order that the fact of seizure has not yet been reported before the court below is factually wrong as evidence from Anx.B proceedings, the seizure of the vehicle has already been reported to the court below. Moreover, it is pointed out by the petitioner that

even in the rulings relied on by the court below viz., Shameer P.M an another v. State of Kerala (2011 (3) KLT 469) and State of Kerala v. Ancy Philip and another (2008 (3) KLT 477), it has been held that the Jurisdictional Magistrate concerned has the jurisdiction u/s 451 of the Cr.P.C to consider the prayer for interim release of articles seized in connection with forest offences. Even if, the court below has a power u/s 451 to consider such plea, provided the factum of seizure has been reported before the court below. In this view of the matter, the impugned order is set aside and the matter is remitted back to the court below for considering the matter afresh and passing necessary orders after hearing the petitioner through his counsel, if any, and the Public Prosecutor appearing for the respondent, State. Both parties will be at liberty to submit written submissions before the court below for consideration of their respective contentions. The court below shall consider the plea of the petitioner for interim release of the seized vehicle, on merits and pass appropriate orders as directed above, within a period of four weeks from the certified copy of this order.

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

sd/-

sab

ALEXANDER THOMAS, JUDGE

