

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE B.KEMAL PASHA**

**WEDNESDAY, THE 4TH DAY OF NOVEMBER 2015/13TH KARTHIKA, 1937**

**CrI.MC.No. 6975 of 2015 ()**

**CMP 3533/2015 of CHIEF JUDICIAL MAGISTRATE COURT, KALPETTA, WAYANAD**

**PETITIONER/PETITIONER :**

**THE SECRETARY  
WAYANAD DISTRICT DRIVERS CO OPERATIVE SOCIETY LTD.  
REPRESENTED BY POWER OF ATTORNEY HOLDER JAIMON JB  
S/O.BABY, JAIVILASAM, PUTHENVEETIL  
THARIYODE VILLAGE, VYTHIRI TALUK, WAYANAD DISTRICT**

**BY ADV. SMT.CELINE JOSEPH**

**RESPONDENT/RESPONDENT :**

**STATE OF KERALA  
EXCISE INSPECTOR OF KALPETTA RANGE  
REPRESENTED BY PUBLIC PROSECUTOR  
HIGH COURT OF KERALA, ERNAKULAM**

**BY PUBLIC PROSECUTOR SMT. P. MAYA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION  
ON 04-11-2015, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:**

**bp**

**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
-----

- ANNEXURE A:** TRUE COPY OF THE POWER OF ATTORNEY OF THE PETITIONER.
- ANNEXURE B:** TRUE COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, KALPETTA
- ANNEXURE C:** TRUE COPY OF THE ORDER DATED 20.10.2015 IN CMP.NO.3533/2015 TH CHIEF JUDICIAL MAGISTRATE COURT, KALPETTA

**RESPONDENT(S)' EXHIBITS :** NIL.

**//TRUE COPY//**

**P.S. TO JUDGE**

**bp**

**B. KEMAL PASHA, J.**

.....  
CRL.M.C. No. 6975 of 2015  
.....

Dated this the 4<sup>th</sup> day of November, 2015

**ORDER**

The petitioner challenges Annexure C order passed by the court below, on an application filed by the petitioner before the court below under Section 451 Cr.P.C. seeking the release of auto rickshaw bearing Reg.No.KL 12-J 2458, to proper custody, pending inquiry and trial of the case.

2. On finding that a quantity of six litres of Indian Made Foreign Liquor was transported by using the said auto rickshaw in contravention of the provisions of the Abkari Act, the said auto rickshaw was seized.

3. There is no meaning in keeping the auto rickshaw idle. If it is so kept, it will get automatically ruined. Therefore, it is only just and proper in the interest of justice to release the auto rickshaw to the petitioner, who is entitled

to proper custody of the auto rickshaw under Section 451 Cr.P.C.

In the result, this Crl.M.C is allowed and Annexure C order passed by the court below is quashed. The auto rickshaw shall be released to the custody of the petitioner under Section 451 Cr.P.C. on the petitioner's furnishing bank guarantee for the value of the auto rickshaw. The court below shall obtain valuation of the vehicle from the Motor Vehicle Department expeditiously. The petitioner shall execute a bond before the court below for the value of the vehicle, with two solvent sureties for the like amount, to the satisfaction of the court below. Further, the petitioner shall not dispose of the vehicle, and produce the same, as and when it is required by the court below or other authorities.

**Sd/- B.KEMAL PASHA, JUDGE**

ul/-

[True copy]

P.S. to Judge