

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

Crl.MC.No. 7595 of 2015

**C.M.P.NO.8660/2015 IN C.C.NO.1421/2015 OF JUDICIAL FIRST CLASS
MAGISTRATE COURT-II. CHERTHALA**

PETITIONER(S)/ACCUSED :

**ANJALO PAUL, AGED 40 YEARS,
S/O.V.D.PAUL, VADAKKE MATTATHIL, PALLIPURAM P.O.,
PALLIPPURAM VILLAGE, CHERTHALA TALUK, ALAPPUZHA DISTRICT,
(OWNER OF LORRY BEARING REGISTRATION NO. KL-32-A-7795)**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S)/COMPLAINANT :

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM,
THROUGH SUB INSPECTOR OF POLICE,
MUHAMMA IN CRIME NO. 888/2015.**
- 2. SUB INSPECTOR OF POLICE,
MUHAMMA POLICE STATION, ALAPPUZHA DISTRICT.**

BY PUBLIC PROSECUTOR SMT.MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 15-12-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

**ANNEXURE A1: TRUE COPY OF THE ORDER DATED 09.11.2015 IN
C.M.P NO. 8660/2015 IN C.C NO.1421/2015 IN
CRIME NO. 888/2015 OF MUHAMMA POLICE STATION
PASSED BY JUDICIAL FIRST CLASS MAGISTRATE
COURT - II, CHERTHALA.**

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

B. KEMAL PASHA, J.

.....
Crl.M.C. No.7595 of 2015
.....

Dated this the 15th day of December, 2015

ORDER

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Heard learned counsel for the petitioner and learned Public Prosecutor.

2. In a case wherein the offences under Section 279 IPC and Section 4(1)(A) read with Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957, the petitioner has approached the court below under Section 451 Cr.P.C. for the interim custody of the vehicle. Instead of exercising the powers under Section 451 Cr.P.C., the court below has chosen to dismiss CMP.8660/2015, thereby directing the investigating officer to produce the vehicle

before the 'concerned authority'. The court below ought to have exercised the power under Section 451 Cr.P.C. and entertained the matter. Much discussion is not required to conclude that Annexure-1 order is *per se* illegal.

3. Petitioner is the registered owner of the vehicle. The court below shall obtain the valuation of the vehicle from the Motor Vehicles Department and release the vehicle to the interim custody of the petitioner on the following terms and conditions:-

(i) The petitioner shall execute a bond for the amount of valuation with two solvent sureties each for the like sum to the satisfaction of the court below.

(ii) The petitioner shall produce the vehicle as and when required before the court below or any of the authorities.

(iii) The petitioner shall not make use of the vehicle for any illegal purpose.

(iv) The petitioner shall not transfer or alienate the vehicle without the prior permission of the court below.

Crl.M.C. is allowed as above.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/15/12

// True Copy //

PA to Judge