

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA,
1937

Cr1.MC.No. 7841 of 2015

AGAINST THE ORDER IN CRL.M.P NO. 4117/2015 OF THE
SESSIONS COURT, THODUPUZHA DATED 24-11-2015
CRIME NO. 1164/2015 OF THODUPUZHA POLICE STATION, IDUKKI

PETITIONER/ACCUSED:

SHAJI A.M, AGED 34 YEARS,
S/O.NAVOOR KANI, ANIMOOTIL HOUSE,
VENGALLOOR P.O, THODUPUZHA,
IDUKKI 685608

BY ADVS.SRI.M.B.SANDEEP
SMT.R.PRIYA
SRI.B.SURJITH
SRI.VISAKH ANTONY
SMT.R.ANJANA

RESPONDENT/RESPONDENT/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM 682031

BY PUBLIC PROSECUTOR SMT.SHEEBA M.T

THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 16-12-2015, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

Cr1.MC.No. 7841 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE A1: COPY OF THE JUDGMENT IN WPC.(CRL)
NO.340/2015 DATED 03.08.2015

ANNEXURE A2: COPY OF THE VAKKALATH FILED BY THE ALLEGED
VICTIM DATED 05.08.2015

ANNEXURE A3: COPY OF THE INTERVENING PETITION FILED BY
THE ALLEGED VICTIM DATED 05.08.2015

ANNEXURE A4: COPY OF THE AFFIDAVIT FILED BY THE ALLEGED
VICTIM DATED 05.08.2015

ANNEXURE A5: COPY OF THE PETITION FILED U/S451 OF THE
CODE OF CRIMINAL PROCEDURE DATED 05.11.2015

ANNEXURE A6: CERTIFIED COPY OF THE ORDER IN
CRL.MP.NO.4117/2015 DATED 24.11.2015 ON THE FILES OF THE
COURT OF SESSIONS JUDGE, THODUPUZHA

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

ab

P.UBAID, J.

Crl.M.C No.7841 of 2015

Dated this the 16th day of December, 2015

O R D E R

The petitioner herein is the registered owner of the vehicle bearing registration No.KL 05/Q 1836, seized as part of investigation, in Crime No.1164/2015 of the Thodupuzha Police Station, involving the offences under Sections 363, 368, 376 and 120(B) of the Indian Penal Code. An application filed by the petitioner under Section 451 of the Code of Criminal Procedure for interim custody of the vehicle was dismissed by the learned Sessions Judge, Thodupuzha on 24.11.2015. The petitioner is aggrieved, and he seeks orders quashing the said order of dismissal.

2. On hearing both sides, and on a perusal of the impugned order, I find that the prosecution does not have any explanation as to why the vehicle could not be released to the petitioner under Section 451 Cr.P.C. It appears that this is a case of elopement. Now it is submitted that the victim and the accused have decided to marry. They had been in intense love for a few months, and the girl eloped with the accused with the

object of getting married. The police seized the vehicle just because the girl eloped with the accused in the said vehicle. It cannot be said that the vehicle was used for the commission of offence. The impugned order does not show the reason why the relief was disallowed, or why the vehicle should continue in police custody for the purpose of investigation. I find that the vehicle can be released to the petitioner.

In the result, this Crl.M.C is allowed. The impugned order will stand set aside and the Crl.M.P No.4117/2015 will stand revived. The learned Sessions Judge is directed to release the vehicle to the petitioner, on appropriate conditions.

**Sd/-
P.UBAID
JUDGE**

//True Copy//

P.A to Judge

ab