

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 4TH DAY OF FEBRUARY 2015/15TH MAGHA, 1936

Crl.MC.No. 6973 of 2014 (E)

**(AGAINST THE ORDERIN C.M.P. 82/2014 IN CRIME NO. 2003/2014 OF CHATHANOOR
POLICE STATION PENDING BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE
COURT, S. PARAVUR, KOLLAM)**

PETITIONER/ACCUSED:

**RATHEESH KUMAR, AGED 40 YEARS,
S/O.RETNAKARAN, RETNA NIVAS, MUTTANVILA PUTHEN VEEDU,
VALATHANKARA.P.O., CHENKAL VILLAGE,
NEYYATTINKARA TALUK.**

BY ADV. SRI.G.SUDHEER

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM. 682 031.**

BY PUBLIC PROSECUTOR, SMT. P. MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
04-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 6973 of 2014 (E)

APPENDIX

PETITIONER'S EXHIBITS

- ANNEXURE A - COPY OF CERTIFICATE OF REGISTRATION OF VEHICLE BEARING REG.NO.KL-02-F 9564 ISSUED BY THE REGISTERING AUTHORITY.**
- ANNEXURE B - COPY OF THE GOODS CARRIAGE PERMIT NO.P.GD.19/1074/2013 DATED 1.11.2013 ISSUED BY THE MOTOR VEHICLES DEPARTMENT.**
- ANNEXURE C - COPY OF THE FIR AND FIS IN CRIME NO.2003/2014 DATED 28.10.2014 OF CHATHANNUR POLICE STATION.**
- ANNEXURE D - COPY OF PERMIT ISSUED UNDER RULE 29(1)(A) OF KERALA PROTECTION OF RIVER BANKS & REGULATIONS OF REMOVAL OF SAND RULES 2001.**
- ANNEXURE E - COPY OF ORDER DATED 14.11.2014 IN CMP NO.82/2014 IN CR.NO.2003/2014 OF CHATHANNOOR POLICE STATION PASSED BY THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, S.PARAVUR, KOLLAM.**

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

DST

P. UBAID, J.

Crl.M.C.No.6973 of 2014

Dated this the 4th day of February, 2015

O R D E R

The petitioner herein claims to be the registered owner of a vehicle. His application for interim custody of the said vehicle under Section 451 Cr.P.C. was dismissed by the Judicial First Class Magistrate Court, South Paravur, Kollam on 14.11.2014, on the ground that the petitioner's request is to release the vehicle without conditions. The said order is sought to be set aside. It is submitted that the vehicle is involved in a prosecution under the provisions of the Kerala Protection of River Banks and Regulation of Removal of Sand Act. The impugned order observes that interim custody can be granted on conditions. Still, the application was dismissed by the learned Magistrate. Copy of the application is now made available to me in open court. The said application does not contain any request to release the vehicle without conditions. It appears that the learned Magistrate closed the proceeding on a misapprehension. It requires to be considered appropriately afresh. The learned Magistrate will have

to take decision judiciously on the claim under Section 451 Cr.P.C. If the vehicle can be released on condition appropriately, such an order can be passed.

In the result, this petition is allowed. The impugned order dated 14.11.2014 in CMP No.82/2014 of the court below is hereby set aside, and the court below is directed to decide CMP No.82/2014 afresh according to law, as indicated above.

Sd/-

P. UBAID, JUDGE

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