

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

OP(Crl.).No. 6 of 2015 (Q)

IN CMP 7249/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT - V,KOZHIKODE

PETITIONER(S):

**JASHEEMUDHEEN AGED 36 YEARS
S/O.MUHAMMED K.V, KAPPADACHALIL HOUSE, NAJA MANZIL
THAZHAKKODE AMSOM, DESOM, KOZHIKODE DISTRICT.**

BY ADV. SRI.T.K.AJITH KUMAR

RESPONDENT(S):

**STATE OF KERALA
REPRESENTED BY S.I OF POLICE, NALLALAM, NALLALAM PO
KOZHIKODE DISTRICT. 673 027.**

R BY GOVERNMENT PLEADER SMT. S. HYMA

**THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON 22-01-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

OP(Crl.).No. 6 of 2015 (Q)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1. COPY OF CMP 7249/14 IN NALLALAM POLICE STATION CRIME NO.891/14
DATED 10.11.14 FILED BY THE PETITIONER BEFORE THE JUDICIAL FIRST CLASS
MAGISTRATE COURT V, KOZHIKODE.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

O.P (Crl.) No.6 of 2015

Dated this the 22nd day of January, 2015.

J U D G M E N T

The petitioner herein claims to be the owner of the vehicle No. KL-10-E-4827. The vehicle is involved in a crime registered by the Nallalam police under the provisions of the Kerala Protection of Regulation of Removal of Sand Act. An application filed by the petitioner herein for interim custody of the vehicle under Section 451 Cr.P.C is pending. He brought this petition under Article 227 of the constitution of India for a direction to the court below to dispose of the said application expeditiously, when he found that proceeding on the said application is unnecessarily delayed. This court called for a report from the learned Magistrate, why the petitioner's application is pending. The learned Magistrate has reported that the court is waiting for valuation certificate of the vehicle, and that in spite of repeated posting the police has not produced the certificate. The petition now stands posted to 16.1.2015. The learned counsel for the petitioner submits that the petition again stands posted to some other date. On a perusal of the report I find no justifiable reason for the alleged inordinate delay in taking decision on the

claim made under Section 451 Cr.P.C. Decision on such an application cannot be delayed, and the court is not expected to wait indefinitely for report or certificate from the Police. When the police fails in their duty, the court will have to pass appropriate orders. The reason stated by the learned Magistrate cannot be fully accepted by this court. When such a claim is made on a property which is kept in the premises of the police station, exposed to sun and rain, the claim will have to be expeditiously decided.

In the result, this petition is allowed. The court below is hereby directed to decide and dispose of C.M.P No.7249/2014, within a period of one month from the date of receipt a of copy of this order.

P.UBAID,
JUDGE

sab