

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

OP(Crl.).No. 96 of 2015 (Q)

PETITIONER(S)/PETITIONER:

**SUKAIRU AGED 35 YEARS
S/O.ABDULLA, KOORIPOYIL
KOORAD(PO), MALAPPURAM DT.**

**BY ADVS.SRI.T.K.AJITH KUMAR
SRI.P.VINODKUMAR**

RESPONDENT(S):

**STATE OF KERALA, BY THE S.I. OF POLICE, NILAMBUR
NILAMBUR(PO), MALAPPURAM DT-679 001.**

BY ADV.SMT.SAREENA.P.GEORGE, PUBLIC PROSECUTOR

**THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON
23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:-

**EXT.P1- TRUE COPY OF CMP 1476/2015 IN NILAMBUR POLICE STATION CRIME
NO.238/2015 DATED 24.2.2015 FILED BY THE PETITIONER BEFORE THE JUDICIAL
FIRST CLASS MAGISTRATE COURT, NILAMBUR.**

RESPONDENT'S EXHIBITS:-

NIL

R.AV

//TRUE COPY//

PA TO JUDGE

K.RAMAKRISHNAN, J

O.P.(CRL).NO.96 OF 2015

Dated this the 23th day of March, 2015

JUDGMENT

This is an application filed by the petitioner to issue direction to the Magistrate to dispose of CrI.M.P.No.1476/2015 in Crime No.238/2015 of Nilambur police station, on the file of Judicial First Class Magistrate Court, Nilambur under Article 226 of the Constitution of India.

2. It is alleged in the petition that the vehicle belonging to the petitioner was seized by the first respondent and confiscation proceedings were initiated alleging offence under section 20, and 21 of the protection of River Banks and Regulations of Removal of Sand Act, 2001 by Revenue Divisional Officer, Perinthalmanna and he filed Ext.P1 application as Criminal M.P.No.1476/2015 in Crime No.238/2015 of Nilambur police station before the Judicial First Class Magistrate Court, Nilambur for interim custody of the vehicle, as early as on 24.02.2015 and the respondent was directed to produce the valuation report of the Motor Vehicle Inspector, Regional transport Office, Malappuram. The case was posted to 27.02.2015. But the respondent has not obtained the report so far, now, the case is posted to 30.03.2015. Unless a direction is given the petition will not be disposed of by the

court below. So, the petitioner has no other remedy except to approach this court seeking the following relief:-

1. to direct the Judicial First Class Magistrate, Nilambur to dispose Ext.P1 application without any further delay.

2. to issue any other appropriate Order, or Direction as the case may be as this Hon'ble Court may deem fit and necessary in the interest of justice.

3. Considering the nature of relief claimed in the petition, this court has called for a report from the Judicial First Class Magistrate Court-Nilambur, through telephonic message and it was informed that the case is now posted to 30.03.2015 and notice has been ordered to second respondent, driver of the vehicle and Assistant Motor Vehicle Inspector on the last posting date on 05.03.2015.

4. Heard the counsel for the petitioner and the public prosecutor as this court felt that the petition can be disposed of at the admission stage itself, after hearing the counsel for the petitioner and the public prosecutor.

5. It is an admitted fact that the vehicle owned by the petitioner with No.KL-45-9770 was seized by the Nilambur police for violating the provisions of protection of River Banks and Regulations of Removal of Sand Act, 2001 and a crime was registered as Crime No.238/2015 of Nilambur police station under section 20 and 21 of the said Act. The confiscation proceedings were initiated by the

Revenue Divisional Officer, Perinthalmanna in respect of the vehicle. Petitioner filed Crl.M.P.No.1476/2015, before the Judicial First Class Magistrate Court, Nilambur for interim custody of the vehicle and no orders have been passed in that application. It is seen from the report of the presiding officer that notice has been ordered to the second respondent, the driver of the vehicle from whom the vehicle was seized and also to the Assistant Motor Vehicle Inspector as he did not submit the valuation report of the vehicle and now the case is posted to 30.03.2015. So, considering the circumstances, this court feels that the petition can be disposed of as follows as the counsel for the petitioner submitted that he will take steps to produce the second respondent before the court below on 30.03.2015 and make him to appear through counsel. If the second respondent appears on 30.03.2015 as undertaken by the counsel for the petitioner, then the learned Magistrate is directed to get the report of the Motor Vehicle Inspector regarding the valuation of the vehicle and dispose of the petition as early as expeditiously, at any rate, within two weeks from 30.03.2015.

With the above direction and observation, the petition is disposed of. Office is directed to communicate this order

to the concerned court immediately by fax.

Sd/-
K.RAMAKRISHNAN, JUDGE

R.AV