

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

FRIDAY, THE 24TH DAY OF APRIL 2015/4TH VAISAKHA, 1937

OP(Crl.).No. 122 of 2015 (Q)

AGAINST THE CLAIM PETITION IN CMP 1588/2015 of J.M.F.C-I.,VADAKKANCHERRY

PETITIONER(S):

VALSALA KRISHNADAS, AGED 67 YEARS,
W/O. KRISHNADAS, VEDANILAYAM, OLIPPARAMBIL HOUSE,
THIRUVILWAMALA, PAMBADI POST, THRISSUR.

BY ADV. SRI.DENIZEN KOMATH

RESPONDENT(S):

1. STATE OF KERALA, REP. BY SUB INSPCECTOR OF POLICE,
PAZHAYANNOOR POLICE STATION, THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM (CRIME NO.41/2015 OF PAZHAYANNOOR
POLICE STATION, THRISSUR DISTRICT - 682 031.
2. MOHAMMED RAFI K.S, S/O. SULAIMAN,
KOTTAKUZHAYIL HOUSE, KIZHAKKUMPURAM POST,
PALAKKAD - 689 653.

R1 BY GOVERNMENT PLEADER SMT. MADHU BEN.

THIS OP (CRIMINAL) HAVING BEEN FINALLY HEARD ON 24-04-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

SS

K. RAMAKRISHNAN, J.

Original Petition (Crl.) No.122 of 2015

Dated this the 24th day of April, 2015

J U D G M E N T

This is an application filed by the petitioner, seeking early disposal of Exts.P1 and P2 applications filed by her before the Judicial First Class Magistrate Court, Vadakkancherry, under Article 227 of the Constitution of India.

2. It is alleged in the petition that the petitioner is the defacto-complainant in Crime No.41/2015 of Pazhayannoor police station, filed against the second respondent alleging offences under Section 405 and 420 of the Indian Penal Code. The alleged bus with Reg.No.KL-09/Z-8399 was seized as part of the investigation and produced before the court. The petitioner filed Ext.P1 and second respondent filed Ext.P2, both claiming interim custody of the vehicle under Section 451 of the Code of Criminal Procedure. But the learned magistrate retired from service on 31.03.2015 and there is no possibility of

new Judicial officer being posted and there is no possibility for disposal of the applications. So the petitioner has no other remedy, except to approach this court, seeking the following reliefs:

1. Issue appropriate directions, orders or command to the Judicial First Class Magistrate Court, Vadakkancherry or to the Court to which charge has been granted to try the cases pending before the said court, to consider and dispose off Ext.P1 and P2 claim petitions under Section 451 Cr.P.C in Crime No.41/2015, within a time frame manner.

2. Such other reliefs that this Hon'ble Court may deem fit and proper to grant in the interest of justice.

3. Award costs of the proceedings.

3. On the basis of the allegations made, this court has called for a report from the concerned magistrate, who is in charge of that court and the learned magistrate sent a report which reads as follows:

“With the reference to above, I may humbly submit that CMP 1620/2015 is a claim petition preferred by one Mohammad Rafi against S.H.O. Pazhayannur and Valsala Krishnadas by seeking interim custody of a bus bearing registration No.KL-09-Z-8399 by claiming him as the agreement owner of the said bus. He claim that he had purchased the vehicle from Valsala Krishnadas, who is the registered owner. Said CMP filed on 5.3.2015 was posted for police report to 1.4.2015 and thereafter adjourned to 11.6.2015 as the magistrate was retired on 31.03.2015. I took charge of JFCM Wadakkanchery on 17.4.2015 and suo moto advanced the matter to today to have an early disposal of the petition. Similar petition preferred by the registered owner of the bus to get interim custody (CMP 1588/2015) is also pending in this

court and posted to this date. I may submit that both petitions can be disposed at the earliest within a period of 10 days.”

4. It is mentioned in the report that the petition will be disposed of at the earliest within a period of ten days. When this was pointed out to the counsel for the petitioner when the case came up for hearing today, the counsel for the petitioner submitted that the report may be accepted and petition may be disposed of accordingly. Since the learned magistrate has expressed his willingness to dispose of the petition within ten days, this court feels that there is no necessity to give any further direction in this regard and the report of the learned magistrate is recorded and the petition is disposed of accordingly, directing the learned magistrate to dispose of the applications as mentioned in the report within the time specified therein.

Office is directed to communicate this order to the concerned court, immediately.

Sd/-

K. RAMAKRISHNAN, JUDGE

// True Copy//

P.A. to Judge

ss