

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

WP(C).No. 1628 of 2015 (C)

PETITIONER(S):

1. PRASAD D, AGED 35 YEARS
S/O.DIVAKARAN, PRASANTH BHAVANAM, KANNANAKUZHI
CHARUMOOD.P.O., MAVELIKARA. 690 504.
2. SUMITHA,
W/O.SASIDHARAN, SUMESH BHAVANAM, PALLICKAL
PANAYIL.P.O., MEVELIKARA.

BY ADV. SRI.NIRMAL V NAIR

RESPONDENT(S):

1. SUB INSPECTOR OF POLICE
POLICE STATION, VALLIKUNNAM-689171.

* ADDL.R2 IMPEADED

2. THE DISTRICT COLLECTOR,
ALAPPUZHA.

ADDL.R2 SUO MOTU IMPEADED AS PER JUDGMENT DATED 21-01-2015

BY GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

WP(C).No. 1628 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1- A TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF TIPPER LORRY
 BEARING REGISTRATION NO.KL-36-7750.**
- P2- A TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF TIPPER LORRY
 BEARING REGISTRATION NO.KL-23-D-7314.**
- P3- A TRUE COPY OF THE FIR IN CRIME NO.31/2015 OF VALLIKUNNAM POLICE
 STATION.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.1628 of 2015

Dated this the 21st day of January, 2015

JUDGMENT

The petitioners are the owners of Tipper lorries bearing Registration Nos.KL-36-7750 and KL-23-D-7314 respectively. The grievance is with regard to the seizure of the said vehicles by the respondent/Sub Inspector of Police in the early hours on 12th of this month, holding that the said vehicles were left abandoned on the side of the Moonamkutty-Krishnapuram Road at Thavalayillakulam Junction. After the seizure, Ext.P3 crime has also been registered under Section 102 of the Cr.P.C. without satisfying the requirements as envisaged under the relevant provisions of law. This made the petitioners to approach this Court seeking for a direction to release custody of the vehicles.

2. Heard the learned Government Pleader, who points out that the petitioners have not revealed the actual facts and circumstances. The vehicles were in fact lying abandoned on the side of the road and that the said vehicles were deployed for the purpose of unauthorised filling of 'paddy land'. On getting

information, the respondent/Sub Inspector of Police rushed to the spot and found that the nearby paddy field was being filled up and heaps of ordinary earth were dumped on the field. The vehicles were lying abandoned and the enquiry revealed that the above vehicles were deployed for the said purpose. Accordingly, the provisions in respect of the offence were altered, whereby Section 188 of IPC and infringement of Sections 11 and 29 of the Act 28 of 2008 were also incorporated and a report has been sent to the concerned Magistrate's Court. It is further pointed out that, if the petitioner is desirous of having interim custody, the competent authority to deal with the matter is none other than the District Collector, in view of the specific terms of Act 28 of 2008.

In the above circumstances, the petitioners are set at liberty to file necessary petitions, if at all any, before the concerned District Collector (District Collector, Alappuzha) and if any such petition for interim custody is filed, it shall be considered and appropriate orders shall be passed within two weeks thereafter. It is for the District Collector to finalise the adjudication proceedings in relation to the provisions of Act 28 of

2008. It will be open for the 1st respondent to prosecute the crime with reference to the offences involved, before the appropriate Magistrate's Court. The Sub Inspector of Police shall report the matter to the concerned District Collector, if it is still to be done. So as to facilitate the exercise as above, the District Collector is 'suo motu' impleaded as the additional 2nd respondent in the party and the learned Government Pleader entered appearance on behalf of the addl. 2nd respondent as well.

Petitioners shall produce a copy of this judgment, along with a copy of the writ petition, before the said respondent, for further steps.

The writ petition is disposed of.

**P.R. RAMACHANDRA MENON,
JUDGE**

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