

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

WP(C) .No. 6272 of 2015 (H)

PETITIONER:

ABDUL JALEEL, AGED 44 YEARS
S/O.KUNJAVARA, ACHIPRA HOUSE, ALANALLUR P.O.
ATHANIPPADI- 6789 601

BY ADVS.SRI.C.K.SREEJITH
SMT.MARY RANZOM LOUIZ
SRI.BOBBYMATHEW KOOTHATTUKULAM
SRI.P.J.SONY

RESPONDENT:

1. THE SUB INSPECTOR OF POLICE
SREEKRISHNAPURAM POLICE STATION, PALAKKAD 679 513.
2. THE REVENUE DIVISIONAL OFFICER, OTTAPALAM- 679101.

R BY GOVERNMENT PLEADER SRI.K.C.VINCENT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
27-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 6272 of 2015 (H)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1:- THE TRUE COPY OF THE FIRST INFORMATION REPORT AS FIR NO.
0752 DATED 10-11-2014 OF SREEKRISHNAPURAM POLICE STATION.

RESPONDENT(S) ' EXHIBITS: NIL

TRUE COPY

PA TO JUDGE

SCL.

P.R. RAMACHANDRA MENON, J.

W.P.(C) No. 6272 of 2015

Dated this the 27th day of February, 2015.

JUDGMENT

The petitioner is the owner of the vehicle bearing registration No.KL 13/L 1512. The said vehicle was seized by the first respondent on 10.11.2014, alleging illegal transportation of river sand. According to the petitioner, the petitioner has not committed any offence. This made the petitioner to approach this Court by filing the writ petition.

2. The learned Government Pleader points out that apart from the offence under Sections 20 and 23 of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001, an offence under Section 379 of IPC is also involved as disclosed from Ext.P1 FIR filed before the concerned Magistrate Court. By virtue of the amendment of statute, particularly Section 23 A, power stands conferred on the Judicial Magistrate as well, as per the 2nd proviso to sub section (2) of 23 A to consider the claim for interim custody. The

confiscation proceedings have to be considered and finalised by the second respondent.

The petitioner is set at liberty to approach the concerned Magistrate's Court for interim custody, if so advised and the Magistrate shall consider the same and pass appropriate orders in terms of the law declared by the Full Bench decision of this Court as reported in **Shan C.T. v. State of Kerala [2010 (3) KHC 333]**, which position has not undergone any change, even after the amendment, as made clear by this Court vide judgment passed in W.P.(C) No.3435 of 2015. The writ petition is disposed of.

Sd/-
P.R. RAMACHANDRA MENON
JUDGE

Scl.