

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C) .No. 10455 of 2015 (F)

PETITIONER:

RAJEEV, AGED 55 YEARS,
S/O.THAMPI, JISHNU VIHAR,
ALAMPARA, NANNIYODE, PALODE VILLAGE,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENTS:

1. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
2. SUB INSPECTOR OF POLICE,
PALODE POLICE STATION,
THIRUVANANTHAPURAM DISTRICT - 695 562.
3. THE ADDITIONAL DISTRICT MAGISTRATE,
COLLECTORATE, THIRUVANANTHAPURAM - 695 001.

BY SR. GOVERNMENT PLEADER SMT.SAREENA GEORGE.P

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C).No. 10455 of 2015 (F)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1: COPY OF THE FIR IN CRIME NO.1176/2014 OF PALODE POLICE STATION.

EXHIBIT P2: COPY OF THE PROPERTY LIST PREPARED BY THE 2ND RESPONDENT IN CONNECTION WITH THE CRIME NO.1176/2014 DATED 15.10.2014

EXHIBIT P3: COPY OF THE LICENSE ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.

EXHIBIT P4: COPY OF THE ORDER DATED 11.2.2015

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.A TO JUDGE

ab

P.UBAID, J.

W.P(C) No.10455 of 2015

Dated this the 31st day of March, 2015

J U D G M E N T

A prosecution brought against the writ petitioner herein under Section 286 of the Indian Penal Code and under Section 9(B)(1)(b) of the Explosives Act stands quashed by this Court as per the order dated 11.2.2015 in CrI.M.C No.684/2015. The explosives involved in the crime must be now in court custody. Instead of making appropriate application before the learned Magistrate for custody of the properties, the writ petitioner brought this writ petition for a direction to the police to release the properties. Such a direction cannot be made by this Court in exercise of writ jurisdiction. The petitioner has remedies under the Code of Criminal Procedure. The properties in court custody, will have to be released by the court appropriately. If the petitioner is entitled to claim custody, and if he is the right person to claim custody, the properties will definitely be released from the Magistrate Court when the prosecution itself stands quashed. It is not something to be granted by this Court in exercise of jurisdiction under Article

226 of the Constitution of India. The petitioner can very well make application before the learned Magistrate for the relief. It is submitted that the petitioner had made application but it was withdrawn. It is not known why the application was withdrawn by the petitioner. Anyway, let him make a proper application, and it will definitely be considered by the learned Magistrate.

With these observations this writ petition is disposed of.

**P.UBAID
JUDGE**

ab