

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

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

WP(C) .No. 12771 of 2015 (V)

PETITIONER(S) :-

RAJU, AGED 47 YEARS
S/O.VELAPPAN, RAJU BHAVANAM, PARAKODE P.O.
PATHANAMTHITTA DISTRICT-690 501.

BY ADV. SRI.M.G.SREEJITH

RESPONDENT(S) :-

INSPECTOR OF POLICE
ADOOR POLICE STATION, PATHANAMTHITTA DISTRICT
REPRESENTED BY GOVERNMENT PLEADER
HIGH COURT OF KERALA, ERNAKULAM - 682 031.

BY GOVERNMENT PLEADER SRI.VINCENT K.C.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
24-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

APPENDIX

PETITIONER(S) ' EXHIBITS :-

EXT.P1. TRUE COPY OF THE REGISTRATION CERTIFICATE.

EXT.P2. A TRUE COPY OF THE FIR NO.0564 DATED 13/4/2015 OF ADOOR POLICE STATION.

EXT.P3. A TRUE COPY OF THE BUILDING PERMITTED DATED 23/2/2015.

EXT.P4. A TRUE COPY OF THE LETTER BEARING NO.A E3/1/2015 ASST. ENGINEER LSGD, ADOOR MUNICIPALITY.

EXT.P5. TRUE COPY OF THE CHALLAN.

EXT.P6. THE ORDER ISSUED BY THE MINING AND GEOLOGY DEPARTMENT.

RESPONDENT(S) ' EXHIBITS :- NIL

//TRUE COPY//

P.S. TO JUDGE

ANIL K.NARENDRA, J

W.P(C).No.12771, 12772 & 12776 of 2015

Dated this the 24th April, 2015

JUDGMENT

In W.P(C).No.12771 of 2015, the petitioner is seeking release of Excavator bearing registration number KL-23-C-626. W.P(C).No.12772 of 2015 is filed by the petitioner seeking release of Tipper Lorry bearing registration number KL-40-G-6945 and W.P(C).No.12776 of 2015 is filed by the petitioner seeking release of Tipper Lorry bearing registration number KL-35-7576. On the facts disclosed in the Writ Petition, the petitioners, relying on the order dated 9.4.2015 of the Senior Geologist, Mining and Geology Department, Pathanamthitta, would contend that one Nissar and Roamsa, Jaleena Mansil, Adoor have obtained permission to remove ordinary sand from their property in Sy.No.116/24 of Peringanad Village, Adoor Taluk for the purpose of constructing a residential building in that property and that the vehicles involved in these

Writ Petitions were engaged in transporting the sand collected from that plot on the strength of the aforesaid permission granted by the Mining and Geology Department. But, on 13.4.2014, alleging that the vehicles were engaged for digging and transportation of ordinary earth from the aforesaid property, proceedings were initiated against the petitioners, which resulted in registration of crime evidenced by Exhibit P2 First Information Report in all these three cases.

2. I heard the arguments of learned counsel for the petitioners and the learned Government Pleader appearing for the respondents.

3. The question whether there is violation of statutory provisions or not has to be adjudicated by the competent authority in the adjudicating proceedings initiated against the petitioners. At this point of time, the proceedings initiated against the petitioners cannot be interfered with by this Court under Article 226 of the Constitution of India.

4. Learned counsel for the petitioners make a submission that the petitioners are ready to release the vehicle on depositing a sum of ₹25,000/- and appropriate orders may be passed for accepting the aforesaid amount and to grant interim custody of the vehicles.

5. Learned Government Pleader, on instructions, would submit that if the petitioners are not agreeable to compound the offence, the respondent shall produce the vehicles before the Magistrate Court concerned and thereafter, it is for the petitioners to get interim custody of the vehicles from there.

6. In the aforesaid circumstances, these Writ Petitions are disposed of as follows:

The respondent shall produce the vehicles involved in these cases before the competent Magistrate Court within a week from today. On such vehicles being produced before the Magistrate Court, the petitioners shall make appropriate application before that Court for

interim custody of the vehicles on depositing a sum of ₹ 25,000/- each. If any such application is filed, the Magistrate concerned shall pass appropriate orders thereon as expeditiously as possible, at any rate, within a period of one week thereafter.

It is made clear that the petitioners shall also execute a bond before the Magistrate court undertaking that they shall not alienate or encumber the vehicles in question during the pendency of the proceedings before the Magistrate Court.

**ANIL K.NARENDRA
JUDGE**

vgs24/4/15