

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 28TH DAY OF MAY 2015/7TH JYAISHTA, 1937

WP(C).No. 15388 of 2015 (W)

PETITIONER(S):

**SHRI.MANKERI SAIDU MUHAMMED JAMSEER, AGED 24 YEARS
S/O.JAMAL, RESIDING AT BAIDY NAGAR, MASTHIGUDDA
PALLIKKARE P.O., KSARAGOD DISTRICT-671 316.**

BY ADV. SRI.M.S.SAJEEV KUMAR

RESPONDENT(S):

- 1. COMMISSIONER OF CUSTOMS,
CUSTOMS HOUSE, WILLINGDON ISLAND, COCHIN-682 009.**
- 2. THE JOINT COMMISSIONER OF CUSTOMS,
CUSTOMS HOUSE, WILLINGDON ISLAND, COCHIN-682 009.**
- 3. DEPUTY COMMISSIONER OF CUSTOMS
COCHIN INTERNATIONAL AIRPORT, NEDUMBASSERRY
COCHIN-683 585.**

R BY SRI.THOMAS MATHEW NELLIMOOTTIL,SC,CB EX

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P1. TRUE COPY OF ORDER (ORIGINAL) NO.18/2015 DATED
10/12/2014.**

EXT.P2. TRUE COPY OF THE LETTER DATED 12/2/2015.

RESPONDENT(S)' EXHIBITS: NIL

// TRUE COPY //

P. A TO JUDGE

SB

K. VINOD CHANDRAN, J.

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Dated this the 28th day of May, 2015

J U D G M E N T

The petitioner has filed the above writ petition for release of foreign currency coming to US\$4500, which was admittedly seized from the petitioner on 11.07.2013. On the said day, the petitioner was detained by the officers of the Customs Air Intelligence Unit on his arrival from Dubai and allegedly undeclared gold was seized from him. Proceedings were taken under the Customs Act, 1962, which has ended in Ext.P1 order, confiscating the 1kg of gold and imposing a penalty of Rs.2,50,000/-. Ext.P1 order also directed release of US\$4500 to the petitioner herein. The petitioner is aggrieved by the fact that, release has not been effected till date.

2. The learned Standing Counsel appearing for the official respondents would submit that the same has not been released only since the petitioner has filed an appeal and has sought setting aside of the order in its entirety. Admittedly, no

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appeal has been filed by the Department. In such circumstance, the mere fact that the petitioner had sought for setting aside the order in its entirety would not result in the release order being set aside, since, the appeal filed could only relate to that portion, which is against the petitioner.

3. In such circumstance, Ext.P2 representation shall be considered and the foreign currency shall be released if no other proceedings are pending. It is specifically pointed out that, the petitioner has filed an application for waiver of pre-deposit. Definitely, when the foreign currency US\$4500 is returned to the petitioner, the petitioner cannot plead impecunious circumstance, insofar as the pre-deposit is concerned. The release shall be made only on the petitioner making the pre-deposit as per statute, in the appeal.

The writ petition is disposed of. No costs.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB

// true copy //

P.A to Judge.