

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 15TH DAY OF SEPTEMBER 2015/24TH BHADRA, 1937

WP(C).No. 17950 of 2015 (P)

C.P. 23/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-II, MAVELIKKARA

PETITIONER :

**MURUKADAS @ MURUKAN, AGED 36 YEARS,
S/O. DHARMAJAN, MIDHUN BHAVANAM, PALLICKAL PANCHAYAT,
PALLICAKAL VILLAGE, PATHANAMTHITTA DISTRICT.**

**BY ADVS.SMT.T.S.MAYA (THIYADIL)
SRI.P.Y.AHAMMED PHYSI**

RESPONDENTS :

- 1. EXCISE CIRCLE INSPECTOR,
EXCISE ENFORCEMENT & ANTI NARCOTIC SPECIAL SQUAD,
ALAPPUZHA - 688 011.**
- 2. ASSISTANT EXCISE COMMISSIONER (ENFORCEMENT)
ALAPPUZHA - 688 011.**

BY GOVERNMENT PLEADER SMT. SAREENA GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

WP(C).No. 17950 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

**P1: PHOTOCOPY OF THE FINAL REPORT SUBMITTED BY THE 3RD RESPONDENT
 IN CR 128/2014 DT. 31.3.15.**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.S. TO JUDGE

bp

B. KEMAL PASHA, J.

.....
W.P.(C) No.17950 of 2015
.....

Dated this the 15th day of September, 2015

J U D G M E N T

The 4th accused in Crime No.128/14 of the Nooranadu Excise Range registered for the offence punishable under Section 55(a) of the Abkari Act, has come up with the prayer for reinvestigation of the matter. Presently, investigation has been completed and final report has been filed before the Judicial First Class Magistrate's Court-II, Mavelikkara where it is pending as CP 23/2015.

2. According to the petitioner, the only act attributed against the petitioner is that he had kept a mini lorry, by which the spirit was transported, in the workshop owned by

him for one day. According to the investigating officer, there were long standing relationship between A1 and the petitioner herein and they were hand in gloves in transporting spirit.

3. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

4. The learned counsel for the petitioner has pointed out that the lorry in question has not been seized and the driver of the lorry has not been arraigned as an accused. The learned counsel for the petitioner has pointed out that there are flaws in the investigation.

5. On hearing the learned counsel for the petitioner and the learned Public Prosecutor, and considering the facts and circumstances of the case, this Court is of the view that the course open to the petitioner is to approach the concerned Sessions Court for bail under Section 227 of Cr.P.C. and to seek a discharge in the matter. On going through the matter, this Court is of the view that a

reinvestigation in the matter is not called for. Matters being so, this writ petition is only to be dismissed.

In the result, this writ petition is dismissed. The petitioner can approach the concerned Sessions Court under Section 227 Cr.P.C. and canvass for a discharge if he is entitled to.

Sd/- B.KEMAL PASHA, JUDGE

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[True copy]

P.S. to Judge