IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

THURSDAY, THE 10TH DAY OF APRIL 2025 / 20TH CHAITHRA, 1947

OP(CRL.) NO. 197 OF 2025

CMP NO.986 OF 2025 OF JUDICIAL MAGISTRATE OF FIRST CLASS -I, CHERTHALA

PETITIONERS/RESPONDENTS 1 AND 2:

1 PRAVEEN KUMAR P
AGED 29 YEARS, S/O PRADEEPKUMAR,
RESIDING AT PRAVEENALAYAM,
PANAVALLY P.O, PANAVALLY VILLAGE,
CHERTHALA, ALAPPUZHA,, PIN - 688526

2 PRADEEP KUMAR
AGED 53 YEARS, S/O RAVEENDRAN PILLAI,
RESIDING AT PRAVEENALAYAM, PANAVALLY P.O,
PANAVALLY VILLAGE, CHERTHALA,
ALAPPUZHA, PIN CODE, PIN - 688526

BY ADVS.
KRISHNADAS P. NAIR
HARIDAS P.NAIR
PRASOON.K.P
K.L.SREEKALA

RESPONDENTS:

1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031

2 STATION HOUSE OFFICER,
CHERTHALA POLICE STATION,
ALAPPUZHA DISTRICT, PIN - 688524

3 DIVAKARAN U A
AGED 71 YEARS, S/O ACHUTHAN,
URALIPARAMBU HOUSE,
BHARATHARANI CHURCH ROAD, PANANGADU,
ERNAKULAM DISTRICT, PIN - 682506

BY ADV SUDHEER K C

SMT.SREEJA V., SR. PP

THIS OP (CRIMINAL) HAVING BEEN FINALLY HEARD ON 10.04.2025, ALONG WITH RP.514/2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

THURSDAY, THE 10TH DAY OF APRIL 2025 / 20TH CHAITHRA, 1947

RP NO. 514 OF 2025

SUO MOTU REVIEW PETITION INITIATED BY HIGH COURT TO REVIEW THE JUDGMENT DATED 13.03.2025 IN O.P(CRL) 173/2025.

RESPONDENTS:

1 STATE OF KERALA
REPRESENTED BY GOVERNMENT PLEADER,
HIGH COURT OF KERALA, PIN - 682031

2 STATION HOUSE OFFICER
CHERTHALA POLICE STATION,
ALAPPUZHA DISTRICT, PIN - 688524

3 DIVAKARAN U A
AGED 71 YEARS, S/O ACHUTHAN,
URALIPARAMBU HOUSE,
BHARATHARANI CHURCH ROAD, PANANGADU,
ERNAKULAM DISTRICT, PIN - 682506

4 PRAVEEN KUMAR P
AGED 29 YEARS, S/O PRADEEPKUMAR,
RESIDING AT PRAVEENALAYAM,
PANAVALLY P.O, PANAVALLY VILLAGE,
CHERTHALA, ALAPPUZHA, PIN - 688526

5 PRADEEP KUMAR
AGED 53 YEARS, S/O RAVEENDRAN PILLAI,
RESIDING AT PRAVEENALAYAM,
PANAVALLY.P.O PANAVALLY VILLAGE,
CHERTHALA, ALAPPUZHA, PIN – 688526

SMT.SREEJA V., SR. PP

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 10.04.2025, ALONG WITH OP(Crl.).197/2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

Since both the matters are connected, I am disposing of the same together.

2. I refer to the status of the parties as they are shown in O.P.(Crl.) No. 197 of 2025.

3. The 3rd respondent filed C.M.P.No. 858 of 2025 before the Judicial First Class Magistrate Court – I, Cherthala (for short, 'the Magistrate Court'), showing only the State as the respondent under Section 503 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'the BNSS'). The request in the said petition was to give a direction to the Cherthala police to release the bus bearing Registration No.KL-39-F-9805 seized by them on his application and kept in the police station. Thereafter, the 3rd respondent has approached this Court by filing O.P.(Crl.) No.173 of 2025 with a prayer to give a direction to dispose of C.M.P.No. 858 of 2025 (wrongly shown as CMP No.693/2025) within a time frame. This Court as per

the judgment dated 13.03.2025 disposed of O.P.(Crl.) No.173 of 2025 directing the Magistrate Court to advance C.M.P.No.858 of 2025 and dispose of it in accordance with law. It was observed in the said judgment that as there is no other claimant, the bus shall be released to the 3rd respondent on imposing appropriate conditions. Thereafter, the Magistrate Court disposed of C.M.P.No. 858 of 2025 and the bus was ordered to be released to the 3rd respondent on conditions. It is submitted that thereafter, the bus was released to the 3rd respondent and it is now in his custody.

4. The petitioners thereafter filed O.P.(Crl.) No.197/2025 stating that they have entered into an agreement with the 3rd respondent for the sale of the bus in question. The 3rd respondent agreed to sell the bus to them and a sum of ₹20,00,000/- was already paid as advance consideration. It is also alleged that as per the terms of the agreement, the possession of the vehicle was handed over to the petitioners.

According to them it is suppressing this fact, C.M.P.No. 858/2025 was filed by the 3rd respondent and he got the custody of the vehicle. It is also stated that 1st petitioner had filed C.M.P. No.986/2025 in C.M.P. No.858/2025 narrating all these facts and to get himself impleaded in C.M.P. No.858/2025. But, even without considering the same, an order was passed in C.M.P. No.858/2025. This Court gave a direction to the Magistrate Court as per the judgment in O.P. (Crl) No.173/2025 to dispose of C.M.P. No.858/2025 without hearing the petitioners. Hence, suo motu review petition was registered as R.P.No.514/2025 in OP(Crl) No.173/2025.

5. I have heard both sides.

6. The records in Crl.M.P.No.658/2025 and C.M.P. No. 693/2025 were called for from the Magistrate Court.

7. A perusal of the records would show that the 3rd respondent initially filed an application as C.M.P. No.693/2025 before the Magistrate Court under Section 97 of the Cr.P.C.

The petitioners were shown as respondents in the said C.M.P. The prayer in the said petition was to give a direction to the Station House Officer, Cherthala to seize the bus bearing Registration No. KL-39-F-9805. In the affidavit filed in support of the said petition, it was alleged that the 3rd respondent was the owner of the said vehicle and the petitioners were the employees of the bus. It was alleged that the petitioners took away the vehicle without his permission. The said petition was allowed, the bus was seized and kept in the police station. It was thereafter C.M.P. No.858/2025 was filed. It is pertinent to note that in the said petition, the petitioners were not made parties. However, the 1st petitioner filed a petition as C.M.P. No.986/2025 on 28.2.2025 to get himself impleaded in C.M.P. No.858/2025. His specific case was that the 3rd respondent has entered into a sale agreement with the petitioners and the vehicle was already taken possession by them legally, pursuant to the said agreement. The said agreement was also produced

along with C.M.P. No.986/2025. However, the factum of execution of the agreement and the pendency of C.M.P.No.986/2025 were not disclosed in O.P(Crl.) No.173/2025. According to the counsel for the 3rd respondent, his client was unaware of the same at the time of filing O.P. (Crl.) No.173/2025. However, when the Magistrate Court disposed of C.M.P.No.858/2025 on 20.3.2025, C.M.P. No.986/2025 was pending. It was without disposing C.M.P. No.986/2025, C.M.P.No.858/2025 was considered and disposed of. This Court gave a direction to the Magistrate Court to dispose of C.M.P. No.858/2025 based on the submission of the 3rd respondent that there is no other claimant. But the petitioners have already raised a claim over the bus in C.M.P. No.986/2025. The Magistrate Court went wrong in disposing of C.M.P. No.858/2025 without impleading the petitioners and hearing them.

8. Since the petitioners have raised rival claim over the

bus, it is necessary to pass a considered order on merits after considering the rival contentions of the parties. Therefore, the order passed by the Magistrate Court in C.M.P. No.858/2025 cannot be sustained and accordingly, it is set aside. The Magistrate Court is directed to allow C.M.P. No.986/2025 and implead the petitioners herein in C.M.P. No.858/2025. The Magistrate Court shall dispose of C.M.P. No. 858/2025 afresh in accordance with law after hearing both sides, within a period of three weeks thereafter. Since the 3rd respondent is the RC owner of the vehicle, the vehicle shall be retained by him till C.M.P. No.858/25 is disposed of by the Magistrate Court.

OP(Crl) No.197/2025 and RP No.514/2025 are disposed of as above.

Sd.-
DR. KAUSER EDAPPAGATH
JUDGE

APA/kp

APPENDIX OF OP(CRL.) 197/2025

PETITIONER EXHIBITS

EXHIBIT P1	**THE TRUE COPY OF THE NOTARY ATTESTED SALE AGREEMENT DATED 30.12.2024**
EXHIBIT P2	**THE TRUE COPY OF THE CMP NO. 658/2025 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT –I, CHERTHALA**
EXHIBIT P3	**THE REPORT FILED BY THE 2ND RESPONDENT IN EXHIBIT P2 DATED 13-02-2025**
EXHIBIT P4	**THE TRUE COPY OF THE CMP NO. 693/2025 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT –I, CHERTHALA**
EXHIBIT P5	**REPORT FILED BY THE 2ND RESPONDENT IN EXHIBIT P2 DATED 22-02-2025**
EXHIBIT P6	**THE TRUE COPY OF THE CMP NO. 986/2025 DATED 28.02.2025 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT –I, CHERTHALA**
EXHIBIT P7	**THE TRUE COPY OF THE JUDGMENT IN OP(CRL) NO.173/2025 ON 13.03.2025**

APPENDIX OF RP 514/2025

PETITIONER ANNEXURES

ANNEXURE A **JUDGMENT DATED 13.03.2025 IN O.P(CRL) 173/2025**

ANNEXURE B **INTERIM ORDER DATED 08.04.2025 IN O.P(CRL) 197/2025**