
(2011) 06 KL CK 0097

High Court Of Kerala

Case No: Criminal MC. No. 1780 of 2011

Abraham

APPELLANT

Vs

The State of Kerala

RESPONDENT

Date of Decision: June 24, 2011

Hon'ble Judges: Thomas P. Joseph, J

Bench: Single Bench

Advocate: C.C. Abraham, for the Appellant; No Appearance, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Thomas P. Joseph, J.

Petitioner claims to be the registered owner of a pick up van bearing No. KL-42/D-115 which was seized by the forest officials for alleged illicit transportation of forest timber on November 07, 2010. The Mananthavady Forest Range Officer registered O.R. No. 1 of 2010 for the said incident. Petitioner moved learned Judicial First Class Magistrate-I, Mananthavady with C.M.P. No. 429 of 2011 for interim custody of the vehicle. By Annexure-A5, order dated 30.03.2011 that request was disallowed by the learned Magistrate observing that offences alleged are serious. The said order is under challenge. Learned Counsel submitted that the vehicle is remaining idle and it will get damaged and lost. Petitioner is prepared to abide by any condition in case custody of the vehicle is given to him. I have heard learned Public Prosecutor also. Learned Public Prosecutor has contended that serious offences is reported to be committed making use of the vehicle.

2. It is not disputed that the vehicle was seized on November 07, 2010. Since then it is remaining idle. If it is kept idle it will get damaged and lost. The Supreme Court in Sunderbhai Ambalal Desai v. State of Gujarat 2003 KLT 1089 has prescribed guidelines with respect to interim custody of vehicles seized for being involved in criminal cases. Having regard to the facts and circumstances of the case I am inclined to think that interim custody of the vehicle can be given to the Petitioner subject to the final order that the learned Magistrate or other appropriate authority dealing with proceeding for

confiscation (if any) passed in the matter.

Resultantly this Criminal Miscellaneous Case is allowed. Annexure-A5, order dated 30.03.2011 is set aside and C.M.P. No. 429 of 2011 of the court of learned Judicial First Class Magistrate-I, Mananthavady (in O.R. No. 1 of 2011 of Mananthavady Forest Range Office) will stand allowed. The vehicle shall be released by way of interim custody to the Petitioner subject to the following conditions:

- i. Petitioner shall not during the time he is in interim custody of the vehicle transfer ownership or possession or encumber the vehicle.
- ii. Petitioner shall not alter or dismantle the vehicle during the said period.
- iii. Petitioner shall produce the vehicle along with its original documents as and when required by the court or other authority as the case may be in the same condition as it is taken delivery.
- iv. Petitioner shall use the vehicle only as per valid vehicular documents including permit.
- v. The vehicle shall not be used for any illicit purpose. It is made clear that if the vehicle gets involved in any other case during the period of interim custody that will be sufficient to cancel the order granted hereby.
- vi. Petitioner shall execute a bond for the value of the vehicle (as may be got assessed by the learned Magistrate through appropriate authority) with two solvent sureties for the like sum each to the satisfaction of learned Magistrate undertaking to comply with the above conditions. One of the sureties shall produce solvency certificate before learned Magistrate.
- vii. Petitioner shall produce before learned Magistrate self-attested photographs of the vehicle with photocopy of the vehicular records which shall be retained by the learned Magistrate. The original documents if any in the custody of the court or investigating agency shall be released to the Petitioner while releasing the vehicle, on proper acknowledgment.