

N. Mohammed Vs. the State of Kerala

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Court : Kerala

Decided On : Jul-30-2013

Judge : Honourable Mr.Justice V.K.Mohanan

Appellant : N. Mohammed

Respondent : The State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE V.K.MOHANAN TUESDAY,THE 30TH DAY OF JULY 2013 8TH SRAVANA, 1935 CrI.MC.No. 3178 of 2013 ()
----- CMP 5221/2013 of JUDICIAL FIRST CLASS MAGISTRATE COURT, KASARAGOD CRIME NO. 273/2013 OF ADHUR POLICE STATION , KASARGOD PETITIONER(S): ----- N. MOHAMMED, AGED 5 YEARS S/O.PAKKEERA SAHIB, RESIDING AT PARAPPEEDIKA HOUSE MULIYAR VILLAGE AND POST, KASARAGOD TALUK KASARAGOD DISTRICT. BY ADV. SRI.T.MADHU RESPONDENTS/STATE: ----- 1. THE STATE OF KERALA, REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA ERNAKULAM.

2. THE STATION HOUSE OFFICER, ADHUR POLICE STATION, KASARAGOD DISTRICT REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA ERNAKULAM. BY PUBLIC PROSECUTOR SMT.S.HYMA THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30-07-2013, THE COURT ON

THE SAME DAY PASSED THE FOLLOWING: tss CrI.MC.No. 3178 of 2013 ()
----- APPENDIX PETITIONER(S)' EXHIBITS
----- ANNEXURE A1: THE TRUE COPY OF THE
REGISTRATION CERTIFICATE OF THE VEHICLE BEARING NO.KL-14-H-5473.
ANNEXURE A2: THE TRUE COPY OF THE PETITION IN C.M.P.NO.5221/2013
ON THE FILE OF THE LEARNED JUDICIAL FIRST CLASS MAGISTRATE'S
COURT, KASARAGOD. RESPONDENT(S)' EXHIBITS
----- NIL TRUE COPY P.A. TO JUDGE tss
V.K.MOHANAN, J.

----- CrI.M.C.No.3178 of 2013
----- Dated this the 30th day of July, 2013

ORDER

The petitioner who is the RC owner of the Excavator bearing registration No. KL-14-H-5473 approached the Judicial First Class Magistrate Court, Kasaragod under Section 451 of Cr.P.C by filing C.M.P.No.5221/2013 in Crime No.273/2013 of Adhur Police Station for the interim custody of the above vehicle. The grievance of the petitioner is that though he had preferred the above petition as early as on 10/6/2013, the same was not considered by the learned Magistrate and no order is passed. Therefore, the above M.C is filed under Section 482 of Cr.P.C with a prayer to direct the Judicial First Class Magistrate Court, Kasaragod to dispose of Annexure-A2 petition within a time frame fixed by this Court, following the decision of the Apex Court in Sunder Bai Ambalal Desai Vs. State of Gujarat (2003(2) KLT 1089).

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

3. It appears that the above referred vehicle is involved in Crime No.273/2013 of Adhur Police Station and CrI.M.C.No.3178 o

2. thus the petitioner preferred Annexure-A2 petition for interim custody of the said vehicle under Section 451 of Cr.P.C. It appears that the above referred vehicle was seized by the Police in the above crime on 5/6/2013 and within 5 days from the date of seizure, the petitioner preferred the above petition but no order is seen

passed by the learned Magistrate. The Apex Court in the decision referred above has categorically pointed out the requirement of releasing of the properties seized in crime cases and directed all concerned to see that the properties so seized are not decayed or its value deteriorated and giving custody of the same to proper person. So according to me the learned Magistrate is bound to consider the Annexure-A2 on merit and pass appropriate orders. In the result this M.C is disposed of directing the Judicial First Class Magistrate Court, Kasaragod, to take up Annexure- A2 and consider the same on merit and pass appropriate orders within one month from the date of producing the copy of this order by the petitioner in the said Court. Sd/- V.K.MOHANAN, JUDGE AS

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