

**Prince Vs. State of Kerala**

**Prince Vs. State of Kerala**

**SooperKanoon Citation :** [sooperkanoon.com/1102421](http://sooperkanoon.com/1102421)

**Court :** Kerala

**Decided On :** Dec-19-2013

**Judge :** Honourable Mr.Justice Harun-UI-Rashid

**Appellant :** Prince

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE HARUN-UL-RASHID THURSDAY, THE19H DAY OF DECEMBER201328TH AGRAHAYANA, 1935 CrI.MC.No. 5560 of 2013 ()  
----- AGAINST THE

ORDER

IN CMP6962012 of JUDICIAL FIRST CLASS MAGISTRATE COURT, DEVICULAM CRIME NO. 60/2011 OF DEVIKULAM FOREST RANGE OFFICE , DEVICULAM ----- PETITIONER(S)/CLAIM PETITIONER:  
----- PRINCE, AGED37YEARS, S/O.SANKARAN, RESIDING AT CHELATTU HOUSE, 1000 ACRE KARA, MANNAMKANDOM VILLAGE, DEVIKULAM TALUK, IDUKKI DISTRICT. BY ADV. SRI.JOICE GEORGE RESPONDENT/COMPLAINANT(S) & STATE:  
----- 1. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. THE RANGE OFFICER, DEVIKULAM FOREST RANGE OFFICE, DEVIKULAM P.O IDUKKI DISTRICT, PIN688586. BY PUBLIC PROSECUTOR SMT.S.HYMA THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 19/12-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: PJ CrI.MC.No. 5560 of 2013 () ----- APPENDIX PETITIONER(S)' EXHIBITS ----- ANNEXURE A1. COPY OF THE FOREST OFFENCE SEIZURE REPORT PREPARED UNDER SECTION 52 OF THE KERALA FOREST ACT, 1961 FILED BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, DEVIKULAM. ANNEXURE A2. COPY OF THE PETITION IN CMP NO.696/2012 IN OR NO.60/2011 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, DEVIKULAM. ANNEXURE A3. COPY OF THE REPORT DATED 24/12.12 FILED IN CMP NO.696/2012 BEFORE THE JUDICIAL MAGISTRATE COURT, DEVIKULAM. ANNEXURE A4. COPY OF THE REPORT DATED 10/5.12 FILED BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, DEVIKULAM IN CMP NO.696/2012. ANNEXURE A5. COPY OF THE

ORDER

DATED 01/06.2012 IN CMP NO.696/2012 IN OR NO.60/2011 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, DEVIKULAM. RESPONDENT(S)' EXHIBITS ----- NIL. / TRUE COPY / P.S. TO JUDGE PJ HARUN-UL-RASHID, J.

----- CrI. M.C No. 5560 of 2013 ----- Dated this the 19th day of December, 2013.

ORDER

Petitioner filed CMP No. 696/2012 in O.R No. 60/2011 of the Forest Range Office, Devikulam before the Judicial First Class Magistrate Court, Devikulam seeking interim custody of the vehicle. The learned Magistrate dismissed the application finding that, the proceedings under Section 61A of the Kerala Forest Act is pending before the Authorised Officer. The learned counsel for the petitioner challenges the said order. The allegation is that the vehicle of the petitioner transported timber without prior sanction from the forest department under the

provisions of the Kerala Preservation of Trees Act, 1986 and the provisions of the Promotion of Tree Growth in Non-Forest Area Act, 2005. It is contended that the proceedings under Section 61 A of the Kerala Forest Act is not applicable in respect of the proceedings and the rejection of the petition filed under Sec.451 of the Cr.P.C by the order in CMP No. 696/2012 is opposed to law and facts. The counsel for the petitioner contended that the act of the respondents alleging violation of the provisions of Kerala Trees Act,1986 and the provisions of the Kerala Forest Act cannot apply in respect of the timber CrI. M.C No. 5560 of 2013 2 seized. The counsel for the petitioner relied on the decision reported in Tomy v. State of Kerala, 2011(3) KLT682 In such circumstances, the counsel contended that the proceedings under Section 61 A of the Forest Act is liable to be set aside.

2. The learned Magistrate passed an order without referring to any of the contention raised by the petitioner. In the facts and circumstances of the case, this Court is of the view that the matter requires re-consideration. The learned Magistrate shall consider the contentions and shall pass orders a fresh within a period of one month from today. The order dated 01.06.2012 in CMP No.696/2012 is quashed. Sd/-HARUN-UL-RASHID, JUDGE. Isn

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**