

Priya Vs. State of Kerala

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Court : Kerala

Decided On : Oct-31-2014

Judge : Honourable Mr. Justice P.Ubaid

Appellant : Priya

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE P.UBAID FRIDAY,THE31T DAY OF OCTOBER20149TH KARTHIKA, 1936 CrI.MC.No. 6176 of 2014 () ----- IN CMP50362014 of MUNSIFF MAGISTRATE COURT, PARAVUR PETITIONER(S)/PETITIONER/PETITIONER: ----- PRIYA AGED35YEARS W/O. RAJESH, EDAYILA VEEDU, KARAMCODU MEENADU VILLAGE, KOLLAM DISTRICT. BY ADVS.SRI.C.RAJENDRAN SRI.K.R.RANJITH RESPONDENT(S)/RESPONDENT/RESPONDENT: ----- STATE OF KERALA REPRESENTED BY THE EXCISE SUB INSPECTOR CHATHANNUR RANGE, KOLLAM DISTRICT-691010 THROUGH REP. BY PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM. R BY PUBLIC PROSECUTOR SMT. P. MAYA THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON3110-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CrI.MC.No. 6176 of 2014 () ----- APPENDIX PETITIONER(S)'

EXHIBITS ----- ANNEXURE A1- A TRUE PHOTOCOPY OF THE RELEVANT PAGE OF THE RC BOOK OF THE AUTO-RICKSHAW BEARING NO. KL-02-AP-5243. ANNEXURE A2- A TRUE PHOTOCOPY OF THE PERMIT OF THE AUTO-RICKSHAW DATED 26.11.2013. ANNEXURE A3- A TRUE PHOTOCOPY OF THE LOAN REPAYMENT SCHEDULE IN RESPECT OF THE AUTO-RICKSHAW COMMENCING FROM 20.8.2013. ANNEXURE A4- A TRUE PHOTOCOPY OF THE INSURANCE CERTIFICATE OF THE AUTO-RICKSHAW. ANNEXURE A5- A TRUE PHOTOCOPY OF THE REMAND APPLICATION DATED 5.10.2014. ANNEXURE A6- CERTIFIED COPY OF THE

ORDER

OF THE MAGISTRATE COURT, S.PARAVUR, KOLLAM IN CMP.NO. 5036/2014 DATED 23.10.2014. RESPONDENT(S)' EXHIBITS: NIL

----- /TRUE COPY/ PATO JUDGE sab P.UBAID, J.

----- Crl. M.C No. 6176 of 2014 -----

Dated this the 31st day of October, 2014.

ORDER

The petitioner claims to be the registered owner of the Auto- rickshaw No. KL-02-AP-5243. On seizure of a small quantity of 50 grams of ganja from the driver of the said vehicle, which he had kept in the dash board of the Auto-rickshaw, the police registered a crime against the driver under Section 20(b) (ii)(A) of the NDPC Act. The Auto- rickshaw was also seized by the police. The petitioner approached the learned Munsiff Magistrate's Court, South Paravur under Section 451 Cr.P.C with Crl.M.P50362014. The learned Magistrate dismissed the claim under Section 451 Cr.P.C on the ground that the vehicle is liable to confiscation under Section 61 of the NDPS Act. Aggrieved by the said order dated 23.10.2014, the petitioner seeks orders from this court under Section 482 Cr.P.C.

2. On hearing the learned counsel and the learned Public Prosecutor, I find that the vehicle can be released to the petitioner on appropriate conditions. The quantity of ganja involved in the case is only a very small quantity of 50 gms. If at all confiscation is found necessary the petitioner can produce the vehicle, for

which appropriate conditions can be imposed. In the present circumstances, it would be unjust and CrI. M.C No. 6176 of 2014 2 inappropriate to allow the Auto-rickshaw to be ruined, being exposed to sun and rain in the police station premises. In the result, this petition is allowed. The impugned order passed by the court below will stand set aside. The vehicle involved in the crime will be released to the petitioner herein on the following conditions: a. The petitioner will produce the original registration certificate along with a photostat copy. The photostat copy will be certified as true copy, and given to the petitioner along with a certificate showing the facts, for all legal and practical purposes. The original registration certificate will be kept in court under safe custody. b. The petitioner will execute a bond with one surety for Rs.50,000/- c. The petitioner shall not transfer or otherwise dispose of the auto- rickshaw, and he will be liable to produce the vehicle as and when required by the court for confiscation purposes or other purposes. P.UBAID, JUDGE sab

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