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Jafar Vs. State of Kerala

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Court : Kerala

Decided On : Mar-16-2016

Judge : B. Kemal Pasha

Appeal No. : Crl.MC. No. 1391 of 2016

Appellant : Jafar

Respondent : State of Kerala

Judgement :

1. The short question to be decided is whether a vehicle made use of for transporting sand removed from another vehicle by which the said sand was illegally transported from a kadavu, can also be treated as a vehicle used for transporting sand from the kadavu, within the meaning of Section 23 of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001.

2. According to the learned counsel for the petitioner, the goods auto rickshaw by which the sand was allegedly transported after it is removed from the lorry which capsized, could not be treated as a vehicle which could be subjected to seizure within the meaning of Section 23 of the Act. In this particular case, sand was allegedly transported illegally by making use of a lorry. In the course of the transport, the lorry capsized and the driver became injured. The driver was taken to the hospital. In the meantime, the petitioner had allegedly made use of his goods auto rickshaw to remove sand from the capsized vehicle and to transport it.

In the course of such transport, the goods auto rickshaw was seized.

3. When sand was removed from another vehicle which suffered a breakdown during its transport from a kadavu, the subsequent vehicle used for transporting sand removed from the earlier vehicle also should be treated as a vehicle made use of for the purpose of transporting sand from the kadavu. Therefore, such subsequent vehicle is also a vehicle which can be subjected to seizure within the meaning of Section 23 of the Act. Annexure-II order passed by the learned Judicial First Class Magistrate's Court, Vatakara does not call for any interference and this Crl.M.C. is only to be dismissed, and I do so.

In the result, this Crl.M.C. is dismissed.

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