

**Sandeep Vs. State of Kerala, Represented by the Public Prosecutor and Another**

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**Court : Kerala**

**Decided On : Oct-14-2015**

**Judge : B. Kemal Pasha**

**Appeal No. : CrI.MC.No. 6318 of 2015**

**Appellant : Sandeep**

**Respondent : State of Kerala, Represented by the Public Prosecutor and Another**

**Judgement :**

1. In Crime No.612 of 2015 of the Udayamperur Police Station, registered for the offences punishable under Section 4(1)(A) read with Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as the Act ) and Rule 58 of Kerala Minor Mineral Concession Rules, 1967, the accused has approached the court below for getting the vehicle seized in the case, released under Section 451 Cr.P.C., through C.M.P.No.825 of 2015.

2. The court below, through Annexure-1 order dated 20.08.2015, dismissed C.M.P.No.825 of 2015 by entering a finding that the vehicle was seized by the District Collector as per the said Act, and thereby directing the petitioner to approach the appropriate authority for getting the vehicle released.

3. As per Section 21(4) of the Act, such a vehicle involved in the offence shall be liable to be seized by an officer or authority specially empowered in that behalf. As per Section 21(4A) of the Act, such a vehicle shall be liable to be confiscated by an order of the court competent to take cognizance of the offence under sub-Section (1) and shall be disposed of in accordance with the directions of such court. In this case, the court below is the competent court to take cognizance of the offence under sub-Section (1) of Section 21 of the Act and, therefore, it is for the court below to enter a decision on the petition filed under Section 451 Cr.P.C. The court below has failed to exercise its jurisdiction and the power conferred on it and, therefore, Annexure-1 order has resulted in substantial miscarriage of justice.

In the result, this CrI.M.C. is allowed and Annexure-1 order is quashed. The court below is directed to pass appropriate orders, in accordance with law, in C.M.P.No.825 of 2015, as expeditiously as possible, at any rate, within 15 days from the date of receipt of a copy of this order.

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