

Raju vs State of Kerala

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Court : Kerala

Decided On : Mar-06-2024

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Crl.MC/1234/2024

Appellant : RAJU

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS WEDNESDAY, THE 6TH DAY OF MARCH 2024 / 16TH PHALGUNA, 1945 CRIME NO.80/2023 OF KATTAKKADA EXCISE RANGE OFFICE, AGAINST THE ORDER/JUDGMENT DATED IN CMP NO.7029 OF 2023 OF JUDICIAL MAGISTRATE OF FIRST CLASS ,KATTAKADA PETITIONER/S: RAJU AGED 50 YEARS S/O. MADHAVI, ANANDHA KRIPA, PARUTHENPARA, CHOWALLOOR, VILAPPIL VILLAGE,VILAPPILSALA P.O, KATTAKADA TALUK, THIRUVANANTHAPURAM, PIN - 695573 BY ADVS. S.V.RAJAN SHIBI.K.P. SWETHA P. DILEEP VAISHNAVI SURESH SREENA B.S. S.HEMANTH SANTHOSH A.N.PREMLAL NEENA R.S. NIDHEESH T.P

RESPONDENT/S: 1 STATE OF KERALA REPRESENTED BY THE
EXCISE INSPECTOR, EXCISE RANGE OFFICE, KATTAKADA,
THIRUVANANTHAPURAM DISTRICT REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM,
KOCHI, PIN - 682031 2 EXCISE INSPECTOR EXCISE RANGE OFF
ICE, KATTAKADA EXCISE ENFORCEMENT AND ANTI NARCOTIC
SQUAD, THIRUVANANTHAPURAM, PIN - 695543 OTHER PRESENT:
SRI. T.R. RANJITH (PP) THIS CRIMINAL MISC. CASE HAVING COME
UP FOR ADMISSION ON 06.03.2024, THE COURT ON THE SAME
DAY PASSED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

===== Crl.M.C.No.1234 of 2024
----- Dated this the 6th day of
March 2024

ORDER

Petitioner challenges the order dated 23.12.2023 in Crl.M.P.No.7029/2023 on the files of the Judicial First Class Magistrate Court, Kattakada.

2. As per the impugned order, interim custody of an

autorikshaw bearing Reg.No.KL-74 A-3154, which is involved in an offence under the Abkari Act was directed to be released to the petitioner on conditions. One of the condition imposed was to deposit a cash security of Rs.1,10,000/-. Aggrieved by the said condition, this petition has been preferred under Section 482 Cr.P.C..

4. I have heard Sri.S.V.Rajan, learned Counsel for the petitioner as well as Sri.T.R.Ranjith, learned Public Prosecutor.

5. Section 53B of the Abkari Act stipulates that, when a vehicle

is seized and if it is to be released temporarily, it shall be done with a direction to execute sufficient bond in the form of cash security equivalent to the market value

of such vehicle or conveyance. The stipulation under Section 53B of the Abkari Act is mandatory and the vehicle can be released only on furnishing such cash security.

6. In the instant case, the value of the vehicle was assessed by

the Assistant Executive Engineer of the PWD, Mechanical Sub Division, stating that the vehicle has a market value of Rs.1,10,000/-, which is seen observed by the learned Magistrate in the impugned order.

7. In view of the above, the condition directing deposit of cash

security, does not call for any interference as the same is in accordance with law. Therefore, I do not find any merit in this Crl.M.C and it is dismissed. Sd/- BECHU KURIAN THOMAS JUDGE jm/ APPENDIX OF CRL.MC 1234/2024 PETITIONER ANNEXURES Annexure A1 TRUE COPY OF THE CRIME AND OCCURRENCE REPORT DATED 01/10/2023 PREPARED BY THE 2ND RESPONDENT IN EXCISE CRIME NO. 80/2023 OF EXCISE RANGE OFFICE, KATTAKKADA,

Annexure A2 TRUE COPY OF THE ORDER DATED 01/11/2023 OF THE HON'BLE HIGH COURT OF KERALA IN BA NO. Annexure A3 TRUE COPY OF THE PETITIONER'S APPLICATION (CMP NO. 7029/ 2023) FILED IN CRIME NO. Annexure A4 THE CERTIFIED COPY OF THE ORDER DATED MAGISTRATE COURT KATTAKKADA IN CMP NO. EXCISE RANGE OFFICE, KATTAKKADA Annexure A5 TRUE COPY OF THE RATION CARD OF THE PETITIONER Annexure A6 TRUE COPY OF THE DISCHARGE CARD/DISCHARGE

SUMMARY DATED 22/07/2023 ISSUED TO THE

PETITIONER FROM THE HEALTH SERVICE DEPARTMENT OF KERALA, CHC, VILAPPILSALA,

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