

Abdul Rasheed M K vs State of Kerala

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Court : Kerala

Decided On : Dec-06-2024

Judge : Honourable Mr.Justice V.G.Arun

Appeal No. : Crl.MC/10251/2024

Appellant : Abdul Rasheed M K

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE V.G.ARUN FRIDAY, THE 6TH DAY OF DECEMBER 2024 / 15TH AGRAHAYANA, 1946 CRL.MC NO. 10251 OF 2024 CRIME NO.845/202024:KER:9801723 OF Kannapuram Police Station, Kannur AGAINST THE ORDER DATED 11.03.2024 IN CMP NO.120/2024 IN CC

NO.62 OF 2024 OF JUDICIAL MAGISTRATE OF FIRST CLASS - III(MOBILE),KANNUR PETITIONER: ABDUL RASHEED M K AGED 50 YEARS S/O ABDUL KHADER N, M K HOUSE, KATTAMPALLY, KANNUR, PIN - 670011 BY ADV P.K.SUBHASH RESPONDENT/COMPLAINANT: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031

SRI. C.S. HRITHWIK, SR.PP. THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06.12.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

Dated this the 6th day of December, 2024

Petitioners tipper lorry bearing registration No.KL-10-Y-9620 was seized in connection with Crime No.845 of 2023 registered at the Kannapuram Police Station for offences punishable under Section 379 of IPC and Section 20 of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001. Though petitioner moved an application seeking interim custody of the vehicle, the jurisdictional Magistrate dismissed the application by Annexure A2. Hence, this Crl.M.C.

2. Learned Counsel for the petitioner submitted

that the only reason for rejecting the application is the possibility of the vehicle being entrusted to the accused/driver, who is involved in 9 other similar cases. It is pointed out that the petitioner was abroad when the petition for interim custody was filed earlier, but has returned and the income from the vehicle is the only means of his livelihood now. Learned Counsel also assured that his client will not entrust the vehicle with the accused in the crime.

3. I heard the learned Public Prosecutor also.

4. Learned Public Prosecutor submits that the concern expressed by the court is genuine, the driver being involved in 9 other cases.

5. As submitted, the learned Magistrate was prompted to dismiss the application mainly for the

reason the accuseds involvement in 9 other cases. At the same time, the fact that the petitioner, who is the RC owner, has no such antecedents, ought to be taken into consideration. Moreover, he has given assurance that the vehicle will not be entrusted with the accused again. In that view of the matter, I find the petitioner to be entitled for interim custody of the vehicle. In the result, Annexure A2 is quashed and the Crl.M.C. disposed of, directing release of petitioners vehicle, subject to the following conditions;

(i) Petitioner shall execute a bond for Rs.5,00,000/- (Rupees Five lakhs only) with two solvent sureties for the like sum to the satisfaction of the Jurisdictional Magistrate.

(ii) Petitioner shall furnish a Bank Guarantee for Rs.1,00,000/- [Rupees One lakh only] before the Jurisdictional Magistrate.

(iii) Petitioner shall submit notarized copies of the Registration Certificate and other documents.

(iv) Petitioner shall not outter modify or alienate the vehicle till the case is over. If any of the above conditions are violated, the Bank Guarantee can be invoked and confiscation proceedings initiated.

Sd/- V.G.ARUN JUDGE SSK/06/12 APPENDIX OF CRL.MC 10251/2024
PETITIONER ANNEXURES Annexure A1 TRUE COPY OF THE FIR IN CRIME
NO. 845 OF 2023 OF KANNAPURAM POLICE STATION DATED 15- 12-2023
Annexure A2 TRUE COPY OF THE ORDER IN C M P NO. 120 OF 2024 IN C C
NO. 62 OF 2024 PASSED BY COURT OF JUDICIAL FIRST-CLASS
MAGISTRATE III(MOBILE), KANNUR DATED 11-3-2024 RESPONDENTS
EXHIBITS : NIL TRUE COPY P.A. TO JUDGE

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