

Three Star Logistics, vs the Narcotic Drug and Psychotropic Substances Disposal Committee,

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Court : Kerala

Decided On : Mar-20-2023

Judge : Honourable Mr.Justice V.G.Arun

Appeal No. : WP(C)/14434/2021

Appellant : Three Star Logistics,

Respondent : The Narcotic Drug and Psychotropic Substances Disposal Committee,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE V.G.ARUN MONDAY,
THE 20TH DAY OF MARCH 2023 / 29TH PHALGUNA, 1944
PETITIONER: THREE STAR LOGISTICS, TIRUR ROAD, TANUR,
MALAPPURAM REPRESENTED BY ITS PROPRIETOR, SUMESH P.,
S/O. CHANDRAN, AGED 39 YEARS, PULLAT HOUSE, TANUR,
NADAKAVU, TIRUR TALUK, MALAPPURAM DISTRICT-676 302. BY
ADVS. AASHIQUE AKTHAR HAJJIGOTHI KEERTHANA J. RAMESH
RESPONDENTS:

1 THE NARCOTIC DRUG AND PSYCHOTROPIC SUBSTANCES DISPOSAL COMMITTEE, REPRESENTED BY DEPUTY EXCISE COMMISSIONER, MALAPPURAM, EXCISE DIVISION OFFICE, CIVIL STATION, MALAPPURAM-676 505. 2 EXCISE ENFORCEMENT AND ANTI NARCOTIC SPECIAL SQUAD, REPRESENTED BY CIRCLE INSPECTOR, B2 BLOCK, CIVIL STATION, MALAPPURAM-676 505. SRI. RENJITH GEORGE, SENIOR PUBLIC PROSECUTOR THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON

20.03.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -2-

JUDGMENT

Dated this the 20th day of March, 2023 The petitioner is the proprietor of Three Star Logistics,

a firm conducting transport and parcel service. The petitioner firm is the owner of the lorry bearing Registration No. KL-55-Y-4116 which was seized in connection with Crime No.26 of 2020 of EE&ANSS Malappuram. The crime is registered for offences punishable under Sections 20(b) ii(c), 27(a) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 on the allegation that, the accused caught while carrying 167.500 Kgs of Ganja in Ashoka Leyland Pickup vehicle bearing registration No.KL-41-G-

7479. They gave a statement that Ganja was brought by the driver of petitioner's lorry, while transporting cement from Andhra Pradesh. Based on the confession, the driver of lorry bearing Registration No.KL-55-Y-4116 was arrayed as accused No.4.

2. Pointing out these facts and seeking interim custody of the lorry, the petitioner approached the 1 st -3-

respondent Drug Disposal Committee, Malappuram with a request to release his vehicle. By Ext.P4, the request was rejected without stating any reason. Aggrieved, this writ petition is filed.

3. This Court in Shanil and Ors. v. State of Kerala

and Ors. (2023 SCC OnLine Ker 1023) has held that in the light of the Supreme Court decision in Sainaba v. State of Kerala (2022 (7) KHC (SC)), Shajahan v. Inspector of Excise and Ors. [2019 (5) KHC 401] stands impliedly reversed. It is also held that, petitions seeking interim custody under Section 457 Cr.P.C. are maintainable even if the inventory of the vehicle is forwarded to the DDC after certification.

4. Following the judgment in Shanil and Ors

(supra), the Crl.M.C. is disposed of, permitting the petitioner to file a petition seeking interim custody under Section 457 Cr.P.C. before the jurisdictional court and directing the court to decide the petition on merits.

5. The Drug Disposal Committee is also directed, not to sell the petitioner's vehicle bearing Registration -4- No.KL-55-Y-4116, if not already sold. Petitioner shall produce a copy of this judgment before the Drug Disposal Committee.

Ordered accordingly. Sd/- V.G. ARUN JUDGE bpr -5- APPENDIX OF WP(C) 14434/2021 PETITIONER'S EXHIBITS Exhibit P1 A TRUE COPY OF CRIME AND OCCURRENCE REPORT OF NDPS CR NO.26/2020 EE AND ANSS MALAPPURAM. Exhibit P2 A TRUE COPY OF SEIZURE MAHAZAR NDPS CR. NO.26/2020 EE AND ANSS, MALAPPURAM. Exhibit P3 A TRUE COPY OF THE PETITION DATED Exhibit P4 A TRUE COPY OF THE ORDER OF DRUG DISPOSAL COMMITTEE, MALAPPURAM DATED

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