

Binu vs State of Kerala

Binu vs State of Kerala

SooperKanoon Citation : sooperkanoon.com/1445500

Court : Kerala Orders

Decided On : Aug-11-2022

Judge : Honourable Mrs. Justice Mary Joseph

Appeal No. : Crl.MC/570/2022

Appellant : BINU

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE MARY JOSEPH
THURSDAY, THE 11TH DAY OF AUGUST 2022 / 20TH SRAVANA,
1944 CRL.MC NO. 570 OF 2022 AGAINST THE ORDER DATED
05.11.2021 IN CMP.NO.1738/2021 OF JUDICIAL FIRST CLASS
MAGISTRATE COURT-II, KOTTARAKKARA CRIME NO.613/2021 OF
POOYAPPALLY POLICE STATION PETITIONER/PETITIONER/2ND
ACCUSED: BINU, AGED 48 YEARS S/O RAVEENDRAN PILLAI
KEERTHANAM, AROORKONAM, VELIYAM VILLAGE,
KOTTARAKKARA, KOLLAM-691 540. BY ADVS.SRI.HARISH
GOPINATH SMT.M.P.SEETHA RESPONDENT/STATE &
COMPLAINANT: 1 STATE OF KERALA THROUGH PUBLIC

PROSECUTOR, HIGH COURT OF KERALA, PIN - 682 031 2
INSPECTOR OF POLICE POOYAPPALLY, POLICE STATION,
KOLLAM , PIN - 691537 BY SRI.RENJITH GEORGE, SR. PUBLIC
PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 11.08.2022, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

ORDER

Dated this the 11th day of August, 2022 This petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short Cr.P.C') challenging an

order passed by Judicial First Class Magistrate Court-II,

Kottarakkara (for short the court below) in CMP No.1738/2021 in Crime No.613/2021 of Pooyappally Police Station.

2. CMP No.1738/2021 was an application filed by the

petitioner under Section 451 Cr.P.C seeking for release of a car (KWID) bearing Registration No.KL-24-R-8766. The court below has passed an order directing interim custody of the car imposing certain conditions, the first among which is a direction to the petitioner to furnish cash security for Rs.3,00,000/-. Aggrieved by the imposition of the said condition, the petitioner has approached this Court in the petition on hand. According to the learned counsel, the car is a 2018 model and it being purchased for a value of Rs.3,46,300/-, Rs.3,00,000/- valued by the Mechanical Engineer is exorbitant and the quantum need to be modified in interference.

3. Section 53 B of the Kerala Abkari Act, 1077 (for short, the Act) reads:

53B. Jurisdiction of courts on articles seized. - Whenever any vehicle or other conveyance used for committing any offence is seized or detained under this Act, and if any court finds that it shall be released temporarily, it shall do so with direction to execute sufficient bond by way of cash

security equivalent to the market value of such vehicle or conveyance, to be fixed by the Mechanical Engineer of the Excise Department or any Mechanical Engineer of or above the rank of an Assistant Executive Engineer of the State Public Works Department, for production of such vehicle or conveyance on demand before the court or the authorised officer and such order shall not prevent the authorised officer from taking or continuing action under section 67B of this Act.

The provision says that a Mechanical Engineer of the Excise Department or any Mechanical Engineer of or above the rank of an Assistant Executive Engineer of the State Public Works Department are empowered to assess the value of the vehicle and in the case on hand the court below has sought for assistance of the Mechanical Engineer of the Excise Department in the matter of fixing the value of the vehicle. The Mechanical Engineer has valued the vehicle at Rs.3,00,000/- and relying on that condition No.1 was imposed in the impugned order. Condition No.1 having been imposed by the court below based on the value assessed for the vehicle by an officer empowered under Section 53B of the Act, this Court finds no reason to interfere with. CrI.M.C fails and is dismissed. Sd/- MARY JOSEPH JUDGE NAB APPENDIX OF CRL.MC 570/2022 PETITIONERS ANNEXURES: ANNEXURE 1 CERTIFIED COPY OF THE ORDER DATED ANNEXURE 2 TRUE COPY OF THE TAX INVOICE DATED RESPONDENTS ANNEXURES: NIL // TRUE COPY // P A TO JUDGE

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com