

Azad P.E. vs State of Kerala

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Court : Kerala

Decided On : Oct-30-2020

Judge : Honourable Mr.Justice V.G.Arun

Appeal No. : Crl.MC/4677/2020

Appellant : Azad P.E.

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE V.G.ARUN FRIDAY, THE 30TH DAY OF OCTOBER 2020 / 8TH KARTHIKA, 1942 Crl.MC.No.4677 OF 2020(D) PETITIONER: AZAD P.E. AGED 40 YEARS S/O. EBRAHIM.P.B., POTTASSERUY (H), PODIPPARA,KALLEKKAD, PIRAYIRI, PALAKKAD,KERALA-678 BY ADVS. SRI.P.MOHAMED SABAH SMT.SAIPOOJA RESPONDENT/S: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682 031 2 STATE HOUSE OFFICER, KUZHALMANNAM POLICE STATION, PALAKKAD ,PIN-678 702 3 THE DISTRICT GEOLOGIST, PALAKKAD DISTRICT, DISTRICT OFFICE OF DEPARTMENT OF MINING AND GEOLOGY, SULTANPET, PALAKKAD-678 001

OTHER PRESENT: SR.PP.C.S.HRITHWIK THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30.10.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Crl.MC.No.4677 OF 2020(D) ..2..

ORDER

Dated this the 30th day of October 2020 The petitioner claims to be the owner of an Eicher Tipper bearing registration No.KL-38-A/4369, an Eicher Cab & Tipper bearing Registration No.KL- 12-E/4484, and a JCB Excavator bearing Registration No.KL-17-C/4950. The said vehicles were seized by the 2nd respondent on 08.10.2020 for alleged violation of the provisions of the Kerala Minor Mineral Concession Rules, 2015 and the Mines and Minerals (Development and Regulation), Act, 1957. The grievance of the petitioner is that the 2 nd respondent failed to report the seizure of the vehicles and machines to the jurisdictional Magistrate Court. The petitioner relies on Section 102(3) of the Code of Criminal Procedure to contend that the 2 nd Crl.MC.No.4677 OF 2020(D) ..3.. respondent is duty bound to report the seizure to the jurisdictional Magistrate Court, failing which the petitioner will be denied an opportunity to move for interim custody under Section 451 Cr.P.C.

2. I heard the learned Public Prosecutor also.

I find merit in the contention that, having seized the vehicles the 2nd respondent is bound to report the seizure to the jurisdictional Magistrate Court. Accordingly, the Crl.M.C is disposed of with the following directions;

I) The 2nd respondent shall report seizure of the vehicles bearing registration Nos. No.KL-38/A-4369, KL-12/E-4484, and KL-17/C-4950 to the jurisdictional Magistrate Court within one week of receipt of a copy of this order. ii) On such report being submitted, the petitioner shall be at liberty to submit applications under Section 451 Cr.P.C

Crl.MC.No.4677 OF 2020(D) ..4.. seeking interim custody of the vehicles. iii) The applications for interim custody, if any filed, shall be considered by the jurisdictional Magistrate and appropriate orders passed without delay.

Sd/- V.G.ARUN SB/30/10/2020 JUDGE CrI.MC.No.4677 OF 2020(D) ..5..
APPENDIX PETITIONER'S/S EXHIBITS: ANNEXURE-I TRUE COPY OF THE
REGISTRATION CERTIFICATE OF THE EICHER TIPPER BEARING
REGISTRATION NO.KL-38-A-4369 ANNEXURE-II TRUE COPY OF THE
REGISTRATION CERTIFICATE OF THE EICHER CAB AND TIPPER BEARING
REGISTRATION NO.KL- 12-E-4484 ANNEXURE-III TRUE COPY OF THE SALE
LETTER ENTERED BETWEEN THE PETITIONER AND ANSIL ANNEXURE-IV
TRUE COPY OF THE REGISTRATION CERTIFICATE OF JCB EXCAVATOR
BEARING REGISTRATION NO.KL-17-C-4950

ANNEXURE-5 TRUE COPY OF THE SALE LETTER ENTERED BETWEEN THE
PETITIONER AND NARAYANANKUTTY ANNEXURE-6 TRUE COPY OF THE
SEIZURE MAHAZAR DATED 08.10.2020 PREPARED BY THE RESPONDENT
NO.2 ANNEXURE-7 TRUE COPY OF THE ORDER DATED 07.08.2020 IN
CRL.MC NO. 34390/2010 OF THE HONOURABLE HIGH COURT OF KERALA
//true copy// P.A to Judge

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