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Deepu Mohan vs State of Kerala

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Court : Kerala

Decided On : Apr-30-2019

Judge : Honourable Mr. Justice Ashok Menon

Appeal No. : WP(C)/7950/2019

Appellant : Deepu Mohan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ASHOK MENON TUESDAY, THE 30TH DAY OF APRIL 2019 / 10TH VAISAKHA, 1941 WP(C).No. 7950 of 2019 PETITIONER/S: DEEPU MOHAN, AGED 38 YEARS, S/O MOHAN T.P, DEEPTHI AVADUKKA, KOZHIKODE,REPRESENTED BY ITS POWER OF ATTORNEY HOLDER AND FATHER NAMELY SRI.MOHANAN T.P., AGED 66 YEARS, DEEPTHI AVADUKKA P.O., PERAMBRA, KOZHIKODE. BY ADVS. SRI.J.JULIAN XAVIER SRI.FIROZ K.ROBIN RESPONDENT/S: 1 STATE OF KERALA REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM 682 031. 2 STATION HOUSE OFFICER, MANANTHAVADY POLICE STATION, WYNAD-670 644.

OTHER PRESENT: SRI. P M SATHEESH, GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30.04.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -2-

JUDGMENT

The petitioner, who is employed abroad, has filed this Writ

Petition through his Power of Attorney holder, who is his father, seeking release of the vehicle bearing Regn.No.KL-56A-9009 involved in Crime No.135/2018 of Mananthavady Police Station for having allegedly committed offence punishable under Section 420 of the Indian Penal Code. The vehicle was directed to be released to the petitioner on execution of bond, by the Judicial First Class Magistrate-II, Mananthavady vide Ext.P2 order dated 6.6.2018 in Crl.MP No.1254/2018. But, it is stated that the Police are insisting on the petitioner himself being present for execution of the bond.

2. The learned counsel for the petitioner relies on a

judgment of this Court in Itty Iype v. State of Kerala [WP(C)

No.26366/2009] for the proposition that the vehicle can be released to the Power of Attorney holder in the absence of the registered owner. It is submitted that the registered owner in this case is employed abroad and he cannot be expected to come for getting release of the vehicle. In view of the above, this Court is of the -3- opinion that there is no harm in the Power of Attorney holder, who is his own father, representing him to apply for release of the vehicle.

3. In the result, this Writ Petition is disposed of directing

that the vehicle bearing Regn.No.KL-56A-9009 involved in Crime No.135/2018 of Mananthavady Police Station, shall be released as ordered by the Judicial First Class Magistrate-II, Mananthavady in Ext.P2 order dated 6.6.2018 in Crl.MP No.1254/2018, if the registered owner or the Power of Attorney holder of the registered owner executes the bond as mentioned in Ext.P2 order.

Sd/- ASHOK MENON JUDGE jg -4- APPENDIX PETITIONER'S/S EXHIBITS: EXHIBIT P1 TRUE COPY OF THE RC BOOK OF VEHICLE NO KL 56A-9009 EXHIBIT P2 TRUE COPY OF THE ORDER DATED 6.6.2018 IN CLR.MP NO 1254/2018 OF JFCM-11 MANATHAVADY EXHIBIT P3 TRUE COPY OF THE POWER OF ATTORNEY EXECUTED ON 10.11.2018 EXHIBIT P4 TRUE COPY OF THE OFFICIAL MEMORANDUM DATED 13.11.2018 ISSUED BY THE HON'BLE JFMC-11 MANATHAVADY //TRUE COPY//

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