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Abdul Muneer Vs. State

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Court : Kerala

Decided On : Jun-24-2015

Judge : Honourable Mr. Justice Alexander Thomas

Appellant : Abdul Muneer

Respondent : State

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS WEDNESDAY, THE24H DAY OF JUNE20153RD ASHADHA, 1937 Crl.MC.No. 3592 of 2015 ---------- CRL.MP30432015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-I, SULTHANBATHERY CRIME NO. 200/2015 OF MEENANGADI POLICE STATION , WAYANAD ---------- PETITIONER(S)/PETITIONER: ---------- ABDUL MUNEER, AGED24YEARS, S/O. KUNHARAMMU, KORALIYATTUPARAMBIL HOUSE, THRIPPANCHI, PALAKKAD, P.O. KUZHIMANNA, PULPATTA, MALAPPURAM - 673 641. BY ADVS.SRI.P.VENUGOPAL (1086/92) SMT.T.J.MARIA GORETTI RESPONDENT(S)/STATE AND DEFACTO COMPLAINANT: ---------- 1. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAULAM.

2. MANSOOR RAHMAN K. (AGE AND FATHER'S NAME NOT KNOWN) SEKATHAM VEEDU, KARIYAMBADI P.O., PURAKKADI VILLAGE, MEENANGADI, WAYANAD DISTRICT - 673 591. R1 BY PUBLIC PROSECUTOR SMT.S. HYMA THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON2406-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: PJ Crl.MC.No. 3592 of 2015 ---------- APPENDIX PETITIONER(S)' ANNEXURES ---------- ANNEXURE A TRUE COPY OF THE REGISTRATION CERTIFICATE IN RESPECT OF THE CAR BEARING REGISTRATION NO.KL-10-AT-2655 ANNEXURE B TRUE COPY OF THE COMPLAINT PREFERRED BY THE R2 BEFORE THE R1 DATED264/15 ANNEXURE C TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER AS CRL.MP.3043/15 BEFORE THE JFCM COURT-I, SULTHAN BATHERY ANNEXURE D TRUE COPY OF THE

ORDER
DATED66/15 PASSED BY THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE -I, SULTHAN BATHERY RESPONDENT(S)' ANNEXURES ---------- NIL. / TRUE COPY / P.S. TO JUDGE PJ ALEXANDER THOMAS, J.

========== Crl.M.C No.3592 of 2015 ========== Dated this the 24th day of June, 2015

ORDER

The petitioner is the registered owner of the Maruti Rits Car bearing registration No.KL -10-AT-2655 which was seized by the police in connection with Crime No.200 of 2015 of Meenangadi police station registered for offences under Section 420 of IPC. The gist of the prosecution case is that the accused (Sajeer) who is a friend of the brother of the petitioner, had taken in the vehicle from the petitioner for a marriage purpose for three weeks and thereafter the said accused Sajeer entered into an agreement with the second respondent de facto complainant and unalwfully pledged the vehicle to the de facto complainant and availed a sum of Rs.2,50,000/- from him. Later the accused Sajeer had taken back the vehicle without returning the amount. There upon, the second preferred a complaint

before the police requesting to take appropriate action to get Crl.M.C No.3592 of 2015 - :

2. :- back the amount of Rs.2.5 lakhs. The police seized the vehicle and that produced it before the jurisdictional Magistrate Court. The sole accused in the crime is one Sajeer and the petitioner is not made an accused in the crime and only allegation is that the accused Sajeer had taken the car from the petitioner and later the accused Sajeer had unlawfully pledged the car to the de facto complainant. Even the request made by the de facto complainant (2nd respondent) before the police authorities that can be seen from Annexure B complaint dated 26.4.2015 (page No.10 and 11 of this paper book) is confined only to the limited request that the amount of Rs.2.5 lakhs paid by him to the accused Sajeer should be returned back by the said Sajeer and the de facto complainant has no case anywhere in the complaint that the car which belong to the petitioner should be returned to the de facto complainant. The petitioner made a request for interim release of the vehicle by filing Crl.M.P No.3043 of 2015 in the impugned crime No.200 of 2015, Meenangadi Police Station and the learned Magistrate as per the impugned order rendered on 6.6.2015 in that application has refused the request of the petitioner (Anx.D order) for the interim Crl.M.C No.3592 of 2015 - :

3. :- release of the vehicle. This refusal order is under challenge in this Crl.M.C. and the petitioner prays that the impugned Anx.D order may be set aside and directions may be issued to ensure that the interim custody of the vehicle in question is given to the petitioner subject to any reasonable conditions that may be imposed by the court.

2. Heard Sri. P. Venugopal, the learned counsel for the petitioner and the learned Public Prosecutor appearing for the respondent, State of Kerala.

3. The learned learned Public Prosecutor was requested by this Court to specifically get instructions from the investigating officer concerned as to whether the investigation in any way even remotely discloses that the petitioner is to be made an accused in this crime and also as to whether the Car in question is involved in any other crime and whether there are any claimant for this Car. Today

the matter came up for consideration, the learned learned Public Prosecutor on instructions from the Investigating officer submitted that the petitioner is not in anyway made as an accused in this crime and the allegations involved is only in the manner Crl.M.C No.3592 of 2015 - :

4. :- stated earlier herein above and further that the Car is not being involved in any other crime and that there are no other claimants for the present Car. It is also admitted by the Investigating Officer that the petitioner herein is in fact the RC owner of the Car in question. In the light of these aspects, the predominant consideration of a court dealing with the jurisdiction under Section 451 of Cr.P.C for interim release of the vehicle is to ensure that the vehicle in question is put to best use and ordinarily it should be given the RC owner as he has the better right as per the provisions of the Motor vehicles Act for use of the Car. In this regard the legal position well settled by Supreme Court in celebrated case in the case Sunderbhai Ambalal Desai v. State of Gujarat AIR 2003 SC638= 2003 KHC535= 2003 (2) KLT1089in paragraph 7 that as to the manner in which the competent criminal courts should deal with such interim release issues. It has also held in General Insurance Council and Others v. State of Andhra Pradesh and others 2010 Crl.L.J2883= 2010 (6) SCC768= 2010 KHC4270 that it is a matter of common knowledge that as and when vehicles are seized and kept in various police stations, not only they occupy substantial space of the police Crl.M.C No.3592 of 2015 - :

5. :- Stations but also being kept in open, are also prone to fast natural decay on account of weather conditions and even a good maintained vehicle loses its road worthiness if it is kept stationary in the police station for more than 15 days etc and that the power conferred under section 451 Cr.P.C is to be thus fairly and judiciously exercised by the competent courts concerned. In the light of these aspects, it is ordered in the interest of justice that the impugned Anx-D refusal order stand set aside. The petitioner shall execute a bond for Rs. 2 lakhs and shall furnish two solvent sureties for the like sum each to the satisfaction of the court below concerned. This direction is issued so that in this manner the total value of the security offered in the bond by the petitioner and by the two sureties will totally come to about Rs. 6 lakhs and the value of the car approximately is around that.

Further that the petitioner shall filed an affidavit before the court below concerned undertaking therein that he will not alienate or transfer the car in any manner without the prior permission of the court below concerned and further that he shall not in any manner dismantle the Car and he shall produce the Car as and when required either by the Crl.M.C No.3592 of 2015 - :

6. :- Investigating Officer concerned or by the court below concerned. The fulfillment of such conditions, the interim custody of the vehicle in question shall be granted to the petitioner immediately thereafter. With these observations and directions, the Crl.M.C stand disposed of. sd/- sab ALEXANDER THOMAS, JUDGE

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