
(2021) 04 KL CK 0020
In the High Court Of Kerala
Case No : Writ Petition (C) No. 5906 Of 2021

Girija Mohan

APPELLANT

Vs

State Of Kerala And Ors

RESPONDENT

Date of Decision : 07-04-2021

Acts Referred:

Narcotic Drugs And Psychotropic Substances Act, 1985 — Section 20(b)(ii)(A)

Citation : (2021) 04 KL CK 0020

Hon'ble Judges : B. Sudheendra Kumar, J

Bench : Single Bench

Advocate : Dinesh Mathew J. Muricken, K.A. Abhilash, N.R. Sangeetharaj, Vinod S. Pillai, Sreelakshmi R, Mohammed Thayib N.M, M. K. Pushpalatha

Final Decision : Disposed Of

Judgement

1. The petitioner claims to be the owner of vehicle bearing registration No.KL-40/E-3008 involved in Crime No.489/2020 of Chengamanad Police Station registered for the offence punishable under Section 20(b)(ii)A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "the NDPS Act"). The petitioner filed a representation before the second respondent for the interim release of the above said vehicle. The second respondent as per Ext.P4 order decided to sell the vehicle in auction, against which this writ petition has been filed.

2. Heard.

3. The learned Counsel for the petitioner has submitted that no reason was stated by the second respondent for passing Ext.P4 order and hence Ext.P4 order cannot be sustained. The learned Counsel for the petitioner has further submitted that even though the petitioner had raised so many contentions before the second respondent at the time of hearing, the said contentions were not considered by the second respondent before passing Ext.P4 order.

4. It appears that Ext.P4 order does not mention any reason for passing the said order. This Court in Smart Logistics (M/s.) Kozhikode v. State of Kerala and

others [2020 (5) KHC 139] held that the owner of the vehicle shall be at liberty to make representation³ before the Drug Disposal Committee⁴ raising his claim over the vehicle, which was seized under the provisions of the NDPS Act. The court further held in Smart Logistics (supra) that if any such representation is made by the owner of the vehicle, the Drug Disposal Committee, before taking a decision on the disposal of the vehicle, shall grant an opportunity of hearing to the owner of the vehicle.

5. In this case, even though Ext.P4 order was passed by the second respondent after hearing the petitioner, no reason was stated by the second respondent for passing the said order. Since the contentions of the petitioner were not considered by the second respondent before passing Ext.P4 order, the said order cannot be sustained. Consequently, I set aside the same and direct⁵ the second respondent to pass order afresh on the representation made by the petitioner, in accordance with law, affording reasonable opportunity of hearing to the petitioner, as expeditiously as possible and at any rate within two months from the date of receipt/production of a copy of this judgment.

Needless to state that the second respondent shall consider all the contentions, which may be raised by the petitioner at the time of hearing, before disposing of the above said representation. The petitioner shall also be at liberty to submit additional representation, if any, if so advised. A copy of the order passed on the representation shall be communicated to the petitioner by the second respondent and until such communication is made, the vehicle shall not be dispose^{6d} of .

This Writ Petition stands disposed of as above.