

(2012) 06 KL CK 0115

In the High Court Of Kerala

Case No : Writ Petition (C) . No. 13635 of 2012 (D)

M. Muneer

APPELLANT

Vs

State of Kerala and The District Collector

RESPONDENT

Date of Decision : 13-06-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 451, 457
Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001 —
Section 22

Citation : (2012) 06 KL CK 0115

Hon'ble Judges : T.R. Ramachandran Nair, J

Bench : Single Bench

**Advocate : Kodoth Sreedharan, for the Appellant; Muhammed Shafi,
Government Pleader, for the Respondent**

Judgement

T.R. Ramachandran Nair, J.—The proceedings under the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001 have been initiated against the vehicle of the petitioner namely, transport vehicle (MGV Tipper) bearing registration No. KL-14-H-8739 which was seized on 28.05.2012 by the revenue officials under the 2nd respondent. Even though the petitioner has filed a request as per Ext.P2, it is stated that no action is being taken to release the vehicle by way of interim custody. Heard the learned Government Pleader who invited my attention to a recent judgment of a Division Bench of this Court in Sujith Vs. State of Kerala, . The Division Bench has issued various directions therein, and paragraph 13 of the said judgment reads as follows:

"It is hereby ordered that the revenue and police authorities, while effecting seizure, shall ensure that any revenue official effecting the seizure, notifies such seizure, also to a police official, over and above the requirement in S.22 of the Act and the Rules. That police official may effect seizure of those goods and report such seizure to the jurisdictional Magistrate in accordance with law and any police officer effecting seizure shall, apart from reporting any such seizure to the jurisdictional Magistrate, also place a report of such seizure before the

concerned revenue authority so that action can follow through the criminal court and through the revenue authority in terms of the laws. Following the aforesaid, it is further ordered that in all pending cases, the competent police officer shall effect seizure and report the same to the jurisdictional magistrate, if not already done and the competent revenue authority shall make appropriate complaint to the jurisdictional Magistrate at the earliest. This would also enable the owners of the goods or vehicles to apply for interim custody in terms of S.451 or 457 Cr.P.C., as the case may be. In ordering release, the Judicial Magistrate shall be guided by the terms laid down by the Full Bench of this Court in Shan Vs. State of Kerala, . The appropriate authorities shall also file complaints for initiating prosecution in all cases, where offences under the Act are disclosed. These directions shall apply in dealing with sand and vehicles, seized by the police or revenue authority under the provisions of the Act or the Code of Criminal Procedure, over and above the directions in Moosakoya (2008 (1) KLT 538) and Thonikkadavath Shoukathali Vs. The Tahsildar and State of Kerala, , until appropriate legislative provisions are brought in."

Going by the same, the revenue officials who seized the vehicle will have to inform the Station House Officer concerned who will have to file a report before the Criminal Court after effecting seizure. This will enable the party to move the concerned Criminal Court under Sections 451 or 457 of Code of Criminal Procedure.

In the light of the above, this writ petition is disposed of directing the 2nd respondent to see that the directions issued by this Court in Sujith Vs. State of Kerala, are complied with in this case also. Appropriate steps will be taken to see that a report is submitted before the Judicial First Class Magistrate Court, Kasaragod within a period of two weeks from the date of production of a copy of this judgment along with a copy of the writ petition.