
(2013) 03 KL CK 0142
In the High Court Of Kerala
Case No : Criminal M.C. No. 939 of 2013

Mushin

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 04-03-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 451

Citation : (2013) 2 Crimes 95

Hon'ble Judges : P. Bhavadasan, J

Bench : Single Bench

Advocate : Thomas J. Anakkallunkal, for the Appellant; R. Rema, Public Prosecutor, for the Respondent

Judgement

P. Bhavadasan, J.—Aggrieved by the order in C.M.P. No. 245/2013 dated 22.1.2013 of the Judicial First Class Magistrate Court-III, Kottayam whereby the vehicle was ordered to be released to the petitioner on certain stringent conditions, the petitioner has approached this Court. The vehicle is involved in Crime No. 1493/2012 of Kottayam West Police Station. The petitioner is claimed to have bought the vehicle and let his friend use the same when the friend told him that it was needed for taking his mother to the hospital. The said friend misused the vehicle which led to the incident.

2. According to the petitioner, he is not an accused in the crime. The petitioner had filed a petition u/s 451 of the Code of Criminal Procedure seeking release of the vehicle. The learned Magistrate, by the impugned order, released the vehicle imposing certain conditions. One of the conditions is that the petitioner shall deposit Bank Guarantee for Rs. 1,00,000. It is pointed out by the petitioner that the said condition is onerous and has no basis and there is no justification for imposing such a condition. After having heard the learned counsel for the petitioner and the learned Public Prosecutor, it seems that there is substance in the above submission. The petitioner has been asked to execute a bond which he is willing and also other conditions have been imposed. There appears to be no

justification for directing the petitioner to deposit Bank Guarantee for Rs. 1,00,000. The said condition is unnecessary.

Hence, while confirming the order of the court below, the condition directing the petitioner to furnish Bank Guarantee for Rs. 1,00,000 stands deleted.