

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

WEDNESDAY, THE 22ND DAY OF MAY 2024 / 1ST JYAISHTA,

1946

CRL.MC NO. 3863 OF 2024

AGAINST THE ORDER/JUDGMENT DATED IN CMP NO.1308 OF 2024

OF JUDICIAL MAGISTRATE OF FIRST CLASS -II, HOSDRUG

PETITIONER/PETITIONER :

MOHAMMED SAHEER N.B

AGED 36 YEARS

S/O BADUVAN KUNHI, R/AT PANDIT HOUSE,

NELLIKKUNNU, KASARAGOD DISTRICT,

KERALA, PIN - 671 121.

BY ADV P.RAKESH THAMBAN

RESPONDENT/RESPONDENT :

STATE OF KERALA

REPRESENTED BY PUBLIC PROSECUTOR,

HIGH COURT OF KERALA, PIN - 682 031.

ASHI M.C. (PP)

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION

ON 22.05.2024, THE COURT ON THE SAME DAY PASSED THE

FOLLOWING:

BECHU KURIAN THOMAS, J

.....

Crl.M.C. No.3863 of 2024

.....

Dated this the 22nd day of May, 2024

ORDER

On 25.03.2024 the Melparamba Police had seized an amount of Rs.14,00,000/- apart from a mobile phone and a scooter from the petitioner. The scooter, is submitted, as having already been released to the petitioner. Subsequently, an application was filed before the learned Magistrate for release of the currency notes and the mobile phone as CMP No.1483/2024. By impugned order dated 15.04.2024, the application was rejected against which this petition under Section 482 of Cr.P.C.has been preferred.

2. I have heard Sri.P.Rakesh Thamban, the learned counsel for the petitioner as well as Sri.Ashi M.C., the learned Public Prosecutor.
3. Admittedly no crime has been registered against the petitioner. During the course of arguments the learned counsel confined his claim for release of the mobile phone alone since proceedings have been initiated by the Income Tax Department as far as the currency notes are concerned.

4. Since no crime has been registered against the petitioner, retention of the mobile phone under the custody of the court is not necessary. In such circumstances, the impugned order is set aside as far as the mobile phone of the petitioner is concerned, and there will be a direction to the Judicial First Class Magistrate Court-II, Hosdurg to release to the petitioner the mobile phone seized on 25.03.2024 from him, on the following conditions:

i.Petitioner shall execute a bond for Rs.15,000/- with two solvent sureties for the like sum to the satisfaction of the learned Magistrate.

ii.Petitioner shall file an affidavit with an undertaking that in case the mobile phone is wanted for any purpose whatsoever, the same shall be produced as and when directed.

The Crl.M.C.is allowed in part.

sd/-
BECHU KURIAN THOMAS
JUDGE

AMV/22/05/2024

APPENDIX OF CRL.MC 3863/2024

PETITIONER ANNEXURES

ANNEXURE A1	TRUE COPY OF THE ORDER IN CMP NO.1483/2024 DATED 15.04.2024 BY THE JUDICIAL FIRST CLASS MAGISTRATE NO.II HOSDURG.
ANNEXURE A2	TRUE OFFICE COPY OF THE PETITION FILED UNDER SECTION 451 CRPC WITH AFFIDAVIT BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE NO.II HOSDURG
ANNEXURE A3	THE CERTIFIED COPY OF THE APPLICATION FILED BY THE APPLICANT/PETITIONER UNDER SECTION 451 CRPC BEFORE THE JFCM NO.II HOSDURG
ANNEXURE A4	THE CERTIFIED COPY OF THE POLICE REPORT IN CMP NO.1308/2024 ON THE FILE OF JFCM NO.II HOSDURG

TRUE COPY