



2025:KER:40289

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

FRIDAY, THE 30<sup>TH</sup> DAY OF MAY 2025 / 9TH JYAISHTA, 1947

CRL.MC NO. 4182 OF 2025

ORDER DATED 28.04.2025 IN CMP NO.2797 OF 2025 OF JUDICIAL  
MAGISTRATE OF FIRST CLASS -III (FOREST OFFENCES), NEDUMANGAD

PETITIONER/PETITIONER:

REVATHY C  
AGED 37 YEARS  
W/O SUNIL KUMAR VAYALARIKATHU  
VEEDU,NANNIYODE,NEDUMANGADU P.O. THIRUVANANTHAPURAM  
DISTRICT, PIN - 695541

BY ADV SRI.S.NIKHIL SANKAR

RESPONDENTS/STATE/COMPLAINANT:

- 1 STATE OF KERALA  
REPRESENTED BY PUBLIC PROSECUTOR HIGH COURT OF  
KERALA,ERNAKULAM (REPRESENTING THROUGH STATION HOUSE  
OFFICER PALODE POLICE STATION, THIRUVANANTHAPURAM  
DISTRICT-695562), PIN - 682031
- 2 DISTRICT COLLECTOR, THIRUVANANTHAPURAM  
2ND FLOOR, CIVIL STATION BUILDING, CIVIL STATION ROAD,  
THIRUVANANTHAPURAM, KERALA- 695 043 IS SUO MOTU  
IMPLEADED AS ADDL. R2 AS PER FINAL ORDER DATED  
30/5/2025 IN CRL. MC 4182/2025

PP M.P.PRASANTH

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON  
30.05.2025, ALONG WITH Cr1.MC.4183/2025, THE COURT ON THE SAME DAY  
PASSED THE FOLLOWING:



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Cr1.M.C.Nos.4182 & 4183 of 2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

FRIDAY, THE 30<sup>TH</sup> DAY OF MAY 2025 / 9TH JYAISHTA, 1947

CRL.MC NO. 4183 OF 2025

ORDER DATED 28.04.2025 IN CMP NO.2798 OF 2025 OF JUDICIAL  
MAGISTRATE OF FIRST CLASS -III (FOREST OFFENCES), NEDUMANGAD

PETITIONER/PETITIONER:

NITHIN A.S NAIR  
AGED 27 YEARS  
S/O SREELEKHA THADATHARIKATHU VEEDU, KOCHUVILA,  
NEDUMANGADU P.O. THIRUVANANTHAPURAM DISTRICT, PIN -  
695541  
BY ADV SRI.S.NIKHIL SANKAR

RESPONDENTS/STATE/COMPLAINANT:

- 1 STATE OF KERALA  
REPRESENTED BY PUBLIC PROSECUTOR HIGH COURT OF  
KERALA, ERNAKULAM (REPRESENTING THROUGHSTATION HOUSE  
OFFICER, PALODE POLICE STATION, THIRUVANANTHAPURAM  
DISTRICT-695562), PIN - 682031
- 2 DISTRICT COLLECTOR, THIRUVANANTHAPURAM  
2ND FLOOR, CIVIL STATION BUILDING, CIVIL STATION ROAD,  
THIRUVANANTHAPURAM, KERALA- 695 043 IS SUO MOTU  
IMPLEADED AS ADDL. R2 AS PER FINAL ORDER DATED  
30/5/2025 IN CRL. MC 4183/2025

PP M.C.ASHI

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30.05.2025,  
ALONG WITH Cr1.MC.4182/2025, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:



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Crl.M.C.Nos.4182 & 4183 of 2025

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## **ORDER**

**Dated this the 30<sup>th</sup> day of May, 2025**

Petitioner in Crl.M.C No.4183 of 2025 is the owner of a Swaraj Mazda Super Tipper bearing registration No.KL 02 AC 5750 and petitioner in Crl.M.C. No.4182 of 2025 is the owner of a Cab Chassis Tipper bearing registration No.KL 2 C 3077. The vehicles were seized alleging transportation of ordinary earth in violation of provisions of the Kerala Conservation of Paddy Land and Wetland Act, 2019. The petitioners thereupon moved the Magistrate Court under Section 503 of the BNSS, seeking interim custody of their vehicles. Learned Magistrate having dismissed the petitions, these Crl.M.Cs are filed.



2. Learned Counsel for the petitioners submits that the reasoning in the impugned orders run contrary to the findings of this Court in Annexure 3 order in Crl.M.C No.4183 of 2025, rendered under similar circumstances. It is the contention of the learned Counsel that even if no crimes are registered, the jurisdictional Magistrate has got the power to order interim custody. To buttress the argument, legal maxim "*Bonijudicisestampliarejurisdictionem*" that translates to "it is the part of a good Judge to enlarge his jurisdiction", is pressed into service.

3. Learned Public Prosecutor submits that the vehicles were seized by the Sub Inspector, Palode Police Station. Thereafter, based on a communication received from the District Geologist the vehicles are to be handed over to the District Collector on 14.04.2025.



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According to the Public Prosecutor, since the vehicles are handed over to the District Collector, the petitioner should approach that authority.

4. No doubt, this Court in **Shan v. State of Kerala** [2010 (3) KLT 413] and **Eldhose Mani v. Sub Inspector of Police, Kottayam and Others** [2022 (7) KHC 91] had directed the jurisdictional Magistrate to reconsider the applications for interim custody. But, in the cases at hand, the vehicles are handed over to the District Collector. In such circumstances, even if the Magistrate is directed to reconsider the petition, that will be a futile exercise. Hence, in spite of the appealing arguments advanced by the learned Counsel for the petitioners, I deem it appropriate to close these Crl.M.Cs, reserving the petitioners' right to approach the District Collector seeking release of the vehicles.



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In the nature of the direction that is being issued, the District Collector, Thiruvananthapuram is suo-moto impleaded as additional respondent. Learned Public Prosecutor takes notice for the additional respondent.

If the petitioners file appropriate applications within two weeks of receipt of a copy of this order, orders thereon shall be passed by the District Collector within a further period of two weeks.

**Sd/-  
V.G.ARUN  
JUDGE**

SSK/30/05



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APPENDIX OF CRL.MC 4183/2025

**PETITIONER ANNEXURES**

- |                   |  |
|-------------------|--|
| <b>Annexure 1</b> | <b>TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE PETITIONER'S VEHICLE</b>   |
| <b>Annexure 2</b> | <b>TRUE COPY OF THE INSURANCE CERTIFICATE OF THE PETITIONER'S VEHICLE</b>  |
| <b>Annexure 3</b> | <b>TRUE COPY OF THE ORDER OF THIS HONOURABLE COURT IN CRL M.C NO:9959/2023</b>   |
| <b>Annexure 4</b> | <b>TRUE COPY OF THE ORDER IN C.M.P.NO:2798/2025 OF JUDICIAL FIRST CLASS MAGISTRATE COURT FOR THE TRIAL OF FOREST OFFENCES, NEDUMANGAD DATED 28/04/2025</b> |



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APPENDIX OF CRL.MC 4182/2025

**PETITIONER ANNEXURES**

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- Annexure 2** TRUE COPY OF THE ORDER OF THIS HONOURABLE COURT IN CRL. M.C NO:9959/2023
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RESPONDENTS EXHIBITS : NIL

TRUE COPY

P.A. TO JUDGE