

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NOS.2100-2101/2017

STATE OF KERALA

Appellant(s)

VERSUS

A.A. ALI

Respondent(s)

J U D G M E N T

KURIAN, J.

1. Aggrieved by the impugned judgment dated 12.04.2017 passed by the High Court of Kerala at Ernakulam in Crl. M.C. No.2601 of 2017 and Crl.M.C. No.2231 of 2017, the State of Kerala has preferred this appeal.
2. The issue pertains to an order passed by the Judicial First Class Magistrate-III, Thrissur on an application filed under Section 451 of the Code of Criminal Procedure, 1973 (for short ‘Cr.P.C.’)
3. The vehicle (Tata Hitachi Model EX 200 Hydraulic Excavator) under the custody of the Court was sought to be released by the respondent - a contractor engaged for the purpose of widening the National Highway.

4. The learned Magistrate by order dated 20th February 2017 permitted the release of the vehicle on furnishing of security by a self-bond for Rs.40,00,000/- together with two solvent sureties for the like sum and also on producing a FD/bank guarantee of the alleged loss caused to the Government building which was demolished for the purpose of widening the National Highway.

5. The respondent challenged the order of the Magistrate before the High Court. The High Court after referring to various decisions passed an order deleting the direction in the order of the Magistrate requiring submission of bank guarantee for the alleged loss to the Forest Department.

6. While issuing notice on 1.12.2017, this petition was ordered to be tagged with Criminal Appeal No.925/2017.

By order dated 06.04.2018, leave granted in Criminal Appeal No.925/2017 was revoked and the special leave petition was dismissed.

7. Be that as it may, in the facts of the present case, it may be seen that the respondent was engaged as a contractor by the National Highway Authority. In the process of the work, as per the direction given by his superior officers, the building was demolished for the purpose of National Highway development. The application filed by the respondent was for release of the vehicle under Section 451 Cr.P.C. In our view, the High Court is justified in holding that the bank guarantee for the alleged loss need not be insisted for releasing a vehicle involved in the process.

The learned Magistrate is directed to release the vehicle without insisting the condition regarding bank guarantee.

In view of the foregoing, the appeal is dismissed.

....., J.
(KURIAN JOSEPH)

....., J.
(SANJAY KISHAN KAUL)

New Delhi;
August 14, 2018