

IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT

THE HONOURABLE MR.JUSTICE GOPINATH.P.

TUESDAY, THE 12<sup>TH</sup> DAY OF MAY, 2020/22<sup>ND</sup> VAISAKHA, 1942

W.P(C) NO.9738 OF 2020

PETITIONER:-

BABU.N.P, AGED 50 YEARS,  
S/O NJARAMBILLYPADAMANABHAN,  
KODANAD VILLAGE, KODANAD P.O.,  
KURICHILAKODKARA, KUNNATHUNADTALUK,  
ERNAKULAM DISTRICT.

BY ADVS. SRI. P.K.VARGHESE  
SRI. P.P.BIJU

RESPONDENTS:-

1. THE SUPERINTENDENT OF POLICE,  
ERNAKULAM RURAL,  
OFFICE OF THE SUPERINTENDENT OF POLICE,  
ALUVA, ERNAKULAM DISTRICT-683 101.
2. THE DEPUTY SUPERINTENDENT OF POLICE,  
OFFICE OF THE DYSP, PERUMBAVOOR,  
ERNAKULAM DISTRICT-683 552.
3. THE CIRCLE INSPECTOR OF POLICE,  
POTHANIKAD POLICE STATION,  
POTHANIKAD P.O.,  
ERNAKULAM, DISTRICT. PIN-686 671.

R1-3 BY SRI. GOVERNMENT PLEADER

THIS WRIT PETITION HAVING COME UP FOR ADMISSION ON  
12.05.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**JUDGMENT**

This writ petition is filed alleging harassment by the Police. It is the case of the petitioner that he is the owner of a JCB Truck Excavator Engine No.84069488 with Chassis No.2125972 ('the vehicle'). According to him, the said vehicle was employed in executing a work entrusted by the Pallarimangalam Grama Panchayat, and that the Excavator was used only on the basis of the directions issued by the secretary of that Panchayat. It appears that Crime No.277/2020 has been registered by the Pothanikkad Police alleging commission of offences under Section 379 of the Indian Penal code in the matter of theft of several loads of ordinary earth from Ward No. II of Pallarimangalam Grama Panchayat.

2. Learned Government Pleader states that the petitioner was directed to produce the vehicle in connection with the

investigation in the aforesaid crime and that it is necessary for the Police to direct production of the vehicle as a part of the investigation of the said crime.

3. Learned Counsel for the petitioner would submit that documents produced along with the writ petition would clearly prove that he had employed the JCB only as per the directions of the Secretary of the Grama Panchayat and that he is not required to produce JCB before the Police, and further that the vehicle should not be seized by the Police at this stage of the proceedings.

4. Considering the facts and facts and circumstances of the case, I am of the considered opinion that the writ petition can be disposed of with the following directions:

a) Petitioner shall produce the vehicle before the Station House Office Pothanikkad Police station within 5 days from today. Petitioner shall also produce all documents proving ownership of the vehicle together with an affidavit executed before a Notary Public, undertaking to produce the vehicle as

and when required by the Police, and also undertaking that he will not transfer the ownership of the vehicle to any other person without obtaining necessary clearance certificate from the Officer in Charge of the investigation in crime No.277/2020. The original of the ownership documents will be retained by the Station House Officer, Pothanikad Police Station in order to ensure that the petitioner does not transfer the ownership to any other person.

b) The Station House Officer, Pothanikkad Police Station shall release the vehicle to the petitioner after taking such steps, which are required for the proper investigation of the crime. This shall be done on the date of production of the vehicle and avoiding unnecessary delay

5. I deem it appropriate to issue these directions as it is felt that the custody of the vehicle with Police would not serve any purpose in the facts and circumstances of the case.

6. If it is found that the the vehicle is liable for confiscation under any provision of the law, this order will not stand in the way of such proceedings being initiated in respect of the vehicle.

With these directions, the writ petition is disposed of.

jm

**GOPINATH.P  
JUDGE**

APPENDIX

PETITIONERS EXTS.

EXT.P1 TRUE COPY OF THE TAX INVOICE DTD. 22.9.12 USED FROM INDIA TECHS LIMITED, KOCHI

EXT.P2 TRUE COPY OF THE FIR DTD. 10.4.2020 IN CRIME NO. 277/2020 OF POTHANIKAD POLICE STATION.

EXT.P3 TRUE COPY OF THE DECISION NO. 13/276/2019 DTD.10.12.2019 TAKEN BY THE PANCHAYAT

EXT.P4 TRUE COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER TO THE 1<sup>ST</sup> RESPONDENT