

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE N.K.BALAKRISHNAN

FRIDAY, THE 30TH SEPTEMBER 2011 / 8TH ASWINA 1933

Crl.MC.No. 1923 of 2011()

CR NO.57/11 OF MAVELIKARA EXCISE RANGE, ALAPPUZHA DISTRICT)

PETITIONER(S)/ACCUSED

1. ANIL KUMAR, S/O.PURUSHOTHAMAN,  
KRISHNALAYAM, MEKKUM MURI,  
THAMARAKKULAM VILLAGE,  
MAVELIKKARA TALUK.
2. SURESH KUMAR, S/O.THANKAPPAN,  
THAVALLATHIL VEETIL, POOZHIKKAD MURI,  
KURUMBALA VILLAGE, ADOOR TALUK,  
PATHANAMTHITTA DISTRICT.
3. RAGHAVAN, S/O.PADMANABHAN,  
VAZHAKKOOTATHIL VADAKETHIL,  
ILLIPPAKKULAM MURI, VALLIKKUNNAM VILLAGE,  
MAVELIKKARA TALUK.
4. RAMESH, S/O.KUNJUPANICKAN,  
MULLASSERY THEKKETHIL,  
NADUVILE MURI, NOORANAD VILLAGE,  
MAVELIKKARA TALUK.

BY ADV. SRI.S.RAJEEV

RESPONDENT/COMPLAINANT

STATE OF KERALA,  
REP. BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM  
(CR. NO.57/11 OF MAVELIKKARA EXCISE RANGE,  
ALAPPUZHA).

BY PUBLIC PROSECUTOR SRI.ALEX M.THOMBRA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION  
ON 30/09/2011, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:

**APPENDIX**  
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**PETITIONER'S EXHIBITS**  
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**ANNEXURE 1. COPY OF THE LICENSE ISSUED TO THE FIRST PETITIONER BY THE EXCISE DEPARTMENT.**

**ANNEXURE II. COPY OF LICENSE ISSUED TO PETITIONER NO.2 TO 4.**

**ANNEXURE III. COPY OF THE TODDY TRANSPORT PERMIT ISSUED BY THE DEPUTY EXCISE COMMISSIONER, PALAKKAD.**

**ANNEXURE IV . COPY OF THE TODDY TRANSPORT PERMIT ISSUED BY THE DEPUTY EXCISE COMMISSIONER, PALAKKAD, IN FAVOUR OF GROUP NO.2 TODDY SHOP.**

**ANNEXURE V. COPY of the BILL ISSUED BY MANIKANTA AUTO GARAGE THE RECEIPT OF THE AMOUNT PAID TO FOCUS AUTOMOBILES FOR PURCHASE OF THE SPACE PARTS.**

**ANNEXRE V(A). COPY OF RECEIPT OF THE AMOUNT PAID TO FOCUS AUTOMOBILES FOR PURCHASE OF THE SPARE PARTS**

**ANNEXURE VI. COPY OF CR NO.57/2011 OF MAVELIKARA EXCISE RANGE.**

**ANNEXURE VII. COPY OF THE ORDER OF THIS HON'BLE COURT DATED 13.06.2008 IN CRIMINAL MC NO.2096/2011**

**ANNEXURE VIII COPY OF PHOTOCOPY OF THE ORDER IN CRL. MC.NO.544 /2011**

**ANNEXURE IX. COPY OF THE ORDER ORDER DATED 3.5.2011 IN CRL. MC. NO.1347/2011**

**ANNEXURE X. COPY OF THE COMMON ORDER PASSED BY THIS HON'BLE COURT IN WPC NO.13813 /2010**

**ANNEXURE XI. COPY OF ORDER DT. 6.6.2011 IN CRL. MC. NO.1585/2011**

**ANNEXURE XII COPY OF THE JUDGMENT DATED 22.07.2010 IN WPC NO.13922/2010.**

**RESPONDENT'S EXHIBITS : NIL**  
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**/ TRUE COPY /**

**P.A. TO JUDGE**

**VK**

**N.K.BALAKRISHNAN, J.**

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**Crl.M.C. No.1923 of 2011**  
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**Dated this the 30<sup>th</sup> day of September 2011**

**ORDER**

Petitioners are accused Nos.3 to 6 in CR No.57/2011 of Mavelikara Excise Range. They are stated to be the licensees of toddy shops mentioned in Annexures-I and II. The crime was registered stating that the illicit toddy was transported by the accused. 13 samples of toddy were taken from 13 jerry cans. Those samples were sent for chemical analysis. The total quantity alleged to have been transported is 650 litres. The crime was registered alleging commission of offences under Secs.58, 55(a) and 67B of the Kerala Abkari Act. Sec.67B deals with confiscation proceedings. The penal provisions are only Secs.55(a) and 58 of Abkari Act. The learned counsel for the petitioners draws my attention to the chemical examination report, Annexure-XIII which shows that percentage by volume of

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ethyl alcohol in all the 13 samples were less than 8.1. No other foreign substances were found in those samples. As such, the offences under Secs.55(a) and 58 would not be attracted. Whether any offence under Sec.56(b) would be attracted, is a matter which the respondent can find and if so the accused can be proceeded against for that offence.

This Crl.M.C. is disposed of accordingly.

**N.K.BALAKRISHNAN,  
JUDGE.**