

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936

Cr1.MC.No. 234 of 2015

IN CC 658/2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT II,
HOSDRUG

PETITIONERS:

1. AKHIL.K,
S/O.RAMACHANDRAN, NARIMALAM, CHAYYOM P.O,
KINANOOR VILLAGE,
KASARAGOD.
2. SANAL KUMAR K,
S/O.SARALA, KUMAYULLA PARAMBU HOUSE,
PUTHUKKAI P.O.
PUTHUKAI VILLAGE, KASARAGOD.

BY ADVS.SRI.RAHUL SASI
SMT.NEETHU PREM

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA,
ERNAKULAM-682 031
2. THE DISTRICT COLLECTOR,
KASARAGOD-671 123.
3. SUB COLLECTOR
KASARAGOD AT KANHANGAD, KANHANGAD,
KASARAGOD-671 315.
4. THE STATION HOUSE OFFICER,
NILWSWARAM POLICE STATION, KANHANGAD P.O.
KASARAGOD-671 310.

BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 03-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 234 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE-A1. COPY OF THE FINAL REPORT IN CC 658/2014 ON THE FILES
OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-II, HOSDURG.

ANNEXURE-A2. COPY OF THE ORDER DATED 16/10/2014 OF THE
PROCEEDINGS OF THE SUB COLLECTOR, KASARAGOD AT KANHANGAD.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.234 of 2015

Dated this the 3rd day of February, 2015

O R D E R

The petitioners herein seek orders quashing the prosecution against them before the Judicial First Class Magistrate Court II, Hosdurg in C.C No.658/2014 brought under Sections 20 and 21 of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001 (for short 'the Sand Act'). The crime was initially registered under the Mines and Minerals Development and Regulation Act (for short 'the MMDR Act'), and pending the proceeding the offence was compounded. Annexure A2 is the proceeding of the Sub Collector, Kasaragod by which composition was allowed by the executive authority and an amount of ₹12,000/- was imposed as penalty. Probably, without noticing this fact the police proceeded, and submitted a final report under the Sand Act. Of course, a final report is not possible for prosecution under the Sand Act. Such prosecution can be initiated only on a complaint by an authorised officer. Even under the MMDR Act, when the offence is compounded, the prosecution will have to be closed because there is specific

provision under the Act that the prosecution shall terminate on composition of the offence as provided under the law. Here the final report is not under the MMDR Act, but under the Sand Act. Anyway, the prosecution is liable to be quashed because there cannot be a prosecution on a final report under the Sand Act. The petitioners have already remitted the penalty on composition, and the learned Public Prosecutor also submits that in the present circumstance the prosecution cannot proceed.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.C No.658/2014 of the Judicial First Class Magistrate's Court II, Hosdurg will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioners will stand released from prosecution, and the bail bond, if any, executed by them will stand discharged.

**P.UBAID
JUDGE**

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