

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

Cr1.MC.No. 733 of 2015

IN CC 2253/2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I,
HOSDRUG
CRIME NO. 1332/2013 OF HOSDURG POLICE STATION , KASARGOD

PETITIONERS:

1. MUHAMMED MUSTHAF A, AGED 32 YEARS,
S/O.ABDUL RAHMAN, RUBINA MANZIL, KOTTIKULAM,
BEKAL, PALLIKKARA II VILLAGE, KASARAGOD DIST.
2. RIYAS BAKSHA AHMED, AGED 41 YEARS,
S/O.M.ISMAIL, MARIYAMBI HOUSE, NEAR HANAJI MASJID,
PALLIKKARA II VILLAGE, KASARAGOD DIST.

BY ADV. SRI.C.K.SREEJITH

RESPONDENTS:

1. THE STATION HOUSE OFFICER
HOSDURG POLICE STATION
KASRAGOD DISTRICT REP. BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM 682031
2. STATE OF KERALA
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA
ENAKULAM 682031

R1 & R2 BY PUBLIC PROSECUTOR SMT.P.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 05-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE A1: COPY OF THE FIR NO.1332/2013 ON THE FILE OF HOSDURG
POLICE STATION

ANNEXURE A2: COPY OF THE COMPLAINT FILED BY ADDL. SUB INSPECTOR
OF POLICE, HOSDURG BEFORE JUDICIAL FIRST CLASS MAGISTRATE NO.1,
HOSDURG

ANNEXURE A3: COPY OF THE SEIZURE MAHAZAR

ANNEXURE A4: COPY OF THE FORWARDING NOTE DATED 14.11.2013 OF
HOSDURG POLICE STATION

ANNEXURE A5: COPY OF THE CHEMICAL ANALYSIS REPORT DATED
21.10.2014 OF CHEMICAL LAB DIRECTORATE OF MINING AND GEOLOGY,
TRIVANDRUM, DATED 21.10.2014

ANNEXURE A6: COPY OF THE PROCEEDINGS OF SUB COLLECTOR, KANHANGAD
DATED 24.11.2014

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.733 of 2015

Dated this the 5th day of February, 2015

O R D E R

The petitioners herein seek orders quashing a prosecution against them under the Kerala Protection of River Bank and Regulation of Removal of Sand Act, 2009 (for short 'the Sand Act'). The offence stands compounded under the law. Annexure A6 proceedings of the Sub Collector, Kasaragod shows that composition was allowed and a penalty of ₹15,000/- was remitted by the petitioners. Annexure A5 report shows that the sand involved in the case is not river sand. The Sub Collector allowed composition in view of the report of analysis that the sand is not river sand. When there is definite report of analysis that it is not river sand, the prosecution under the Sand Act cannot be sustained. The learned Public Prosecutor also submits that the sand involved in the case is identified as ordinary sand and not river sand. In such a situation, the prosecution cannot continue.

In the result, this Criminal Miscellaneous Case is allowed. The prosecution against the petitioners herein in

C.C No.2253/2014 of the Judicial First Class Magistrate's Court I, 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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