

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

Cr1.MC.No. 910 of 2015

CRIME NO. 50/2012 OF KODANAD POLICE STATION, ERNAKULAM

PETITIONER/2ND ACCUSED:

ROOPESH,
KORAKANKUDI VEETIL, KODANAD,
PERUMBAVOOR,
ERNAKULAM.

BY ADVS.SMT.K.P.SANTHI

SRI.R.JAYAKRISHNAN (MUTHUKULAM)

SRI.RILGIN V.GEORGE

SMT.E.U.DHANYA

RESPONDENT/STATE:

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY SR.PUBLIC PROSECUTOR SMT.SAREENA GEORGE.P

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 09-04-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 910 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE-I: COPY OF THE PASS DATED 6.2.2012 OF THE PANCHAYATH.

ANNEXURE-II: COPY OF THE FIR NO.50 OF 2012 OF KODANAD POLICE
STATION.

ANNEXURE-III: COPY OF THE PROCEEDINGS DATED 13.3.2012 OF THE
DISTRICT COLLECTOR, ERNAKULAM.

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.910 of 2015

Dated this the 9th day of April, 2015

O R D E R

The petitioner herein seeks orders quashing the FIR and the further proceeding in Crime No.50/2012 of the Kodanad Police Station, registered under Sections 17(4) and 23 r/w 20 of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, on the ground that the river sand was in fact transported by him under a valid pass. Copy of the said pass was produced in court by the petitioner. The police was directed to verify the genuineness of this pass. The report submitted by the Sub Inspector of Police, Kodanad shows that the pass was in fact produced by the petitioner later, after the registration of the FIR and that the FIR would not have been registered, if the petitioner had produced the pass at the right time. Thus the report shows that the sand was in fact transported by the petitioner under a valid pass. Annexure 3 order of the Sub Divisional Magistrate, Muvattupuzha shows that during the proceedings before him he also found that sand was in fact transported by the petitioner under a valid pass. In such a

circumstance confiscation proceeding was not felt necessary. However, the Sub Divisional Magistrate directed the petitioner to remit an amount of ₹5,000/- for getting the vehicle released. It is not known under authority or provision he made such a direction. He can release the amount only in a confiscation proceeding. Here under the Kerala Sand Act, composition of the offence is also not possible. When there is no confiscation proceedings, and when all the authorities are satisfied that sand was in fact transported by the petitioner under a valid pass, nothing can be recovered from him and the vehicle will have to be released. Anyway, I find that the present prosecution is unsustainable. The crime is liable to be quashed.

In the result, this Criminal Miscellaneous Case is allowed. The FIR and the further proceeding against the petitioner in Crime No.50/2012 will stand quashed under Section 482 of the Code of Criminal Procedure.

**P.UBAID
JUDGE**

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