

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

Crl.MC.No. 971 of 2015 ()

IN CC 542/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT-I, ALUVA

PETITIONER(S)/ACCUSED:

**1. MUHAMMED ALI S/O. KOCHADIMA, KUNNATHU VEEDU, AGED 64 YEARS
PAPPRASSERY, CHENGAMANADU, ERNAKULAM DISTRICT**

**2. RANDHEEP, AGED 24 YEARS
S/O BINOY, MOOTHEDATH HOUSE
NORTH ADUVASSERY, KUNNUKARA
ERNAKULAM DISTRICT**

BY ADV. SRI.MANSOOR.B.H.

RESPONDENT(S):

**STATE OF KERALA
REP.BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA
REPRESENTING THROUGH STATION HOUSE OFFICER CHENGAMANDU
POLICE STATION ERNAKULAM DIST.**

R BY PUBLIC PROSECUTOR SMT. P. MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20-02-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 971 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A: CERTIFIED COPY OF THE COMPLAINT IN C.C. 542/2014 OF JFCM COURT-1, ALUVA

ANNEXURE B: TRUE COPY OF THE ANALYTICAL REPORT (189/13-14 DATED 4.7.2013 ISSUED BY THE SENIOR CHEMIST, CHEMICAL LAB, DIRECTORATE OF MINING AND GEOLOGY, THIRUVANANTHAPURAM

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PATO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 971 of 2015

Dated this the 20th day of February, 2015.

O R D E R

The petitioners herein seeks orders quashing the prosecution brought against them under the provisions of the Kerala Protection of River Banks and Removal and Regulation of Sand Act, 2001 (Sand Act). They seek orders on the ground that on chemical analysis, the alleged sand was identified as ordinary sand and not river sand. Of course, it is true that it is a proper complaint under the provisions of the Sand Act. The position is covered by the decision of this Court in **Althaf Vs. State of Kerala 2014(3)KHC 621**. When the material is not river sand, the prosecution brought under the Sand Act will have to be quashed. However the police can very well proceed under the Mines and Mineral (Development and Regulation) Act, and the rules thereunder, if such a prosecution is possible.

In the result, this petition is allowed. The prosecution against the petitioners in C.C No. 542 of 2014 before the Judicial First Class Magistrate Court-I, Aluva will stand quashed

under Section 482 Cr.P.C, without prejudice to the right of the police to bring proper prosecution under the provisions of the MMDR Act, or the rules framed thereunder.

P.UBAID,
JUDGE

sab