

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

Cr1.MC.No. 1305 of 2015 ()

CC 1957/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-I, HOSDRUG
CRIME NO. 1335/2013 OF HOSDURG POLICE STATION, KASARGOD

PETITIONER/ACCUSED:

JANOOP A., AGED 25 YEARS
S/O. AACHUTHAN, A.K.HOUSE, KATTADI
AJANOR VILLAGE, KASARAGOD DIST.

BY ADVS.SRI.RAHUL SASI
SMT.NEETHU PREM

RESPONDENTS/COMPLAINANT:

1. STATE OF KERALA
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM, PIN 682031.
2. DISTRICT COLLECTOR
KASARAGOD-671123.
3. SUB COLLECTOR
KASARAGOD AT KANHANGAD, KANHANGAD, KASARAGOD-671315.
4. THE STATION HOUSE OFFICER
HOSDURG POLICE STATION, KANHANGAD P.O.
KASARAGOD-671315.

R BY PUBLIC PROSECUTOR SMT. P. MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
06-04-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 1305 of 2015 ()

APPENDIX

PETITIONER(S) ' EXHIBITS

ANNEXURE A1- A TRUE COPY OF THE FIR IN CC NO. 1957 OF 2014 ON THE
FILES OF THE JUDICIAL MAGISTRATE COURT II, HOSDURG.

ANNEXURE A2- A TRUE COPY OF THE ORDER DATED 17-05-2014 OF THE
PROCEEDINGS OF THE SUB COLLECTOR, KASARAGOD AT KANHANGAD.

RESPONDENT'S EXHIBITS: NIL

TRUE COPY

PA TO JUDGE

Scl.

P.UBAID, J.

Crl.M.C.No. 1305 of 2015

Dated this the 6th day of April, 2015.

ORDER

The petitioner herein is the accused in C.C.No.1957 of 2014 of the Judicial First Class Magistrate Court-I, Hosdurg. The crime was initially registered under Sections 20 and 21 of the Kerala Protection of River Banks and Regulation of Removal of Sand Act (The Sand Act). Later on analysis in the laboratory, it was detected that the sand involved in the crime is not river sand. Accordingly, the proceeding was converted into one under the Mines and Minerals Development and Regulation Act (MMDR Act). During investigation, the petitioner made a request for compounding the offence. Accepting the said request, the offence was compounded, and the vehicle was also released to the petitioner by the Sub Collector of Kasaragod, however with a warning. Annexure A2 is the copy of the order of the Sub Collector, accepting composition. Section 23 A (1) of the MMDR Act, provides that any offence punishable under the Act or any rule made thereunder may be compounded by the person authorised under Section 22 to make a complaint to the

court with respect to that offence, on payment to that person, for credit to the Government, of such sum as that person may specify. Sub section (2) to 23 A, further provides that where an offence is compounded under sub Section (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender in respect of the offence so compounded, and the offender, if in custody, shall be released forthwith. In view of Section 23 A(2) of MMDR Act, the prosecution pending against the petitioner will have to be quashed. It cannot proceed in view of the provisions contained in the Sub Section.

In the result, this Crl.M.C. is allowed. The prosecution against the petitioner in C.C.No.1957 of 2014 of the Judicial First Class Magistrate Court-I, Hosdurg will stand quashed under Section 42 of Cr.P.C.

**Sd/-
P.UBAID
JUDGE**

Scl.