

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 9TH DAY OF JUNE 2015/19TH JYAISHTA, 1937

CrI.MC.No. 1758 of 2015 ()

CC.NO. 3292/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT -I,HOSDURG

PETITIONER(S)/ACCUSED:

1. **SANTHOSH M.,
S/O.KUNHIKANNAN NAIR, CHULLIMOOLA,
MADIKKAI P.O., KASARAGOD.**
2. **FAISAL B.K.,
S/O.KUNHAHAMMED, BAKKOTT HOUSE, ARANGADI,
KANHANGAD P.O., KASARAGOD.**

**BY ADVS.SRI.RAHUL SASI
SMT.NEETHU PREM**

RESPONDENTS/COMPLAINANT:

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

BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 09-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEX 1: A TRUE COPY OF THE REPORT U/S. 190 (1) (B) CRPC IN CC NO. 3292
 OF 2013 ON THE FILES OF THE JUDICIAL MAGISTRATE COURT-I,
 HOSDURG.**

**ANNEX 2: A TRUE COPY OF THE ORDER DATED 13/02/2014 OF THE
 PROCEEDINGS OF THE SUB COLLECTOR, KASARAGOD AT
 KANHANGAD.**

ANNEX 3: A PHOTOCOPY OF ACKNOWLEDGEMENT OF RECEIPT OF MONEY.

RESPONDENT(S)' ANNEXURES:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

ALEXANDER THOMAS, J.

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Dated this the 9th day of June, 2015.

ORDER

The prayer in this Crl.M.C is as follows:

“..... to quash Annexure A1 Report in CC No.3292 of 2013 on the files of the Judicial First Class Magistrate Court I, Hosdurg, filed as against the petitioners under Kerala Protection of River Banks and Regulation of Removal of Sand Rules, and thereby drop the entire proceeding as the offence has been already compounded as evidenced from Annexure-A2, as expeditiously as possible; in the interest of justice and for ends of justice.”

2. The petitioners submit that pursuant to the impugned proceedings initiated on the basis of Kerala Protection of River Banks and Regulation of Removal of Sand Act and the Rules framed thereunder, analysis was done and that the analysis report shows that the seized sand is ordinary sand and not river sand and consequentially the case was registered under the Mines and Minerals (Development and Regulation) Act. Later, the petitioners have compounded the case by payment of compounding fee as envisaged under Sec. 23A of the MMDR Act and Annexure-A3 is

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the receipt acknowledging payment of compounding fee by the petitioners. It is therefore submitted that in view of the compounding of the offence, the entire criminal proceedings are legally terminated. In spite of the legal position well settled, for reasons known to them, the authorities concerned had continued the impugned criminal proceedings in C.C.No.3292/2013 on the file of the Judicial First Class Magistrate Court-I, Hosdurg, Kasaragod District. This the petitioner contends that mainly ultravires and without jurisdiction and this Court may interdict with such impugned criminal proceedings.

3. The learned Public prosecutor was requested to get instructions and today the learned Public Prosecutor on instructions from the 4th respondent-Station House Officer, Hosdurg Police Station submits that continuation of the impugned criminal proceedings is not correct in view of the compounding of the offence and steps will be immediately taken by the said respondent to withdraw the prosecution concerned. The above said submission of the prosecutor on behalf of the 4th respondent-

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Station House Officer, Hosdurg Police Station is recorded. Accordingly it is declared that any further continuation of the impugned criminal proceedings is mainly ultravires and without jurisdiction in view of the compounding of the offence.

With these observations and directions, this Crl.M.C stands finally disposed of.

ALEXANDER THOMAS,
Judge.

bkn/-