

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937

Crl.MC.No. 1971 of 2015 ()

IN CC 711/2014 of J.M.F.C-I, HOSDURG

PETITIONER(S)/ACCUSED:

- 1. PRABHAKARAN K.M AGED 39 YEARS
S/O.K.V.NARAYANAN, MOOLAKKE HOUSE, ARAYI
KANHANGAD VILLAGE, KASARAGOD DISTRICT.**
 - 2. FAIZAL V.K
S/O.KUNHAHAMMED, BAKKODU HOUSE, ARANGADI.P.O.
KANHANGAD VILLAGE, KASARAGOD.**
- BY ADVS.SRI.RAHUL SASI
SMT.NEETHU PREM**

RESPONDENT(S)/COMPLAINANTS:

- 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, KANHANGAD, KASARAGOD-671 315.**
 - 4. THE STATION HOUSE OFFICER
HOSDURG POLICE STATION, KANHANGAD.P.O.
KASARAGOD-671 315.**
- R BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE. P.**

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 1971 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A1- THE TRUE COPY OF THE FIR DATED 14.02.2014 IN CRIME NO.178 OF 2014 WITH THE HOSDURG POLICE STATION.

ANNEXURE A2- A TRUE COPY OF THE COMPLAINT U/S 190(I)(B)CRPC IN CC NO.711 OF 2014 ON THE FILES OF THE JUDICIAL MAGISTRATE COURT II, HOSDURG.

ANNEXURE A3- A TRUE COPY OF THE ORDER DATED 3.07.2014 OF THE PROCEEDINGS OF THE SUB COLLECTOR, KASARGOD AT KANHANGAD.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PATO JUDGE
sab

P.UBAID, J.

Crl. M.C No.1971 of 2015

Dated this the 26th day of March, 2015.

O R D E R

The petitioners herein are the two accused in C.C No.711 of 2014 of the Judicial First Class Magistrate Court -I, Hosdurg. It is a prosecution brought under Section 4 r/w Section 21 of the Mines and Minerals Development and Regulation Act ('the Act'). The offence stands compounded as provided under the law, and the vehicle involved in the case also stands released to the petitioner by the Executive Authority. The grievance of the petitioners is that in spite of composition the prosecution continues. They seek orders quashing the prosecution under Section 482 Cr.P.C. Section 23A of the Act authorizes composition by the person authorized under Section 22 of the Act. Sub Section 2 to Section 23A 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 sub Section 2 of Section 23A of the Act the present prosecution against the petitioners

is liable to be quashed. It is not known why the authorized officer continues the prosecution when there is such a specific provision against continuance of prosecution, once the offence is compounded. The Annexure A3 order of the Sub Collector, Kasaragod shows that the offence stands compounded on payment of ₹ 20,000/- as penalty, and the Executive Authority has also released the petitioners vehicle with necessary warning.

In the result, this petition is allowed. The prosecution against the petitioners in C.C. No.711 of 2014 of the Judicial First Class Magistrate Court-I, Hosdurg will stand quashed under Section 482 Cr.P.C.

Sd/-

P.UBAID,
JUDGE

sab