

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

Crl.MC.No. 2388 of 2015 ()

CRIME NO. 1123/2013 OF HOSDURG POLICE STATION, KASARGOD DISTRICT

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PETITIONER/ACCUSED:

- 1. N.P. KASIM, AGED 41 YEARS
S/O.T.MOHAMMED, PUNJAVI, P.O. OZHINJA VALAPU
NEELESWARAM (VIA), KANHANGAD, KASARAGODE DISTRICT.**
- 2. RATHEESH R, AGED 33 YEARS
S/O RAVI, NAGATHAMPADI HOUSE, MALAKALLU P.O.
KALLAR VILLAGE, RAJAPURAM.**

BY ADV. SRI.V.V.NANDAGOPAL NAMBIAR

RESPONDENTS:

- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.**
- 2. THE SUB COLLECTOR
COLLECTORATE, KASARGODE, PIN:671121.**

BY Sr.PUBLIC PROSECUTOR SMT. SAREENA GEORGE P.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10-04-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS

ANNEXURE 1: TRUE COPY OF FIR NO.1123/13 DATED 14.9.2013 OF HOSDURG POLICE STATION.

ANNEXURE 2: TRUE COPY OF THE ANALYTICAL REPORT (467/1-14) DATED 11.12.2013.

ANNEXURE 3: TRUE COPY OF THE PROCEEDING DATED 23.1.2014.

ANNEXURE 4: TRUE COPY OF THE RECEIPT DATED 22.1.2014.

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.2388 of 2015

Dated this the 10th day of April, 2015

O R D E R

The petitioner herein is the accused in Crime No.1123/2013 of the Hosdurg Police Station initially registered under Sections 20 and 21 of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001 (for short, 'the Sand Act'), and later converted into one under the provisions of the Mines and Minerals (Development and Regulation) Act (for short, 'the MMDR Act'). During investigation, the police found on analysis that the sand involved in the case is not river sand. In such a situation, the petitioner approached the Sub Collector, Kasaragod with a request for composition. The composition was allowed on a penalty of Rs.25,000/-. The petitioner remitted the amount, and the vehicle was released to him. His present request is to quash the FIR in the crime. Of course, composition is not possible under the Sand Act, but Section 23A of the MMDR Act permits composition. 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 by the offender in respect of the offence so compounded, and the

offender, if in custody, shall be released forthwith. In view of the provision contained in Sub Section 2 to Section 23A of the MMDR Act, the crime against the petitioner is liable to be quashed. The vehicle already stands released under the law.

In the result, this petition is allowed. The FIR and further proceedings in Crime No.1123/2013 of the Hosdurg Police Station will stand quashed under Section 482 Cr.P.C.

Sd/-

P. UBAID, JUDGE

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