

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 16TH DAY OF JULY 2015/25TH ASHADHA, 1937

Crl.MC.No. 4405 of 2015 ()

PETITIONER/ACCUSED:

**MOHAMMED RIYAS, AGED 25 YEARS,
S/O.ABDUL KADER, KAKKODATH HOUSE,
PALLIKUNNU P.O., MANNARKKAD,
PALAKKAD DISTRICT.**

**BY ADVS.SRI.C.M.KAMMAPPU,
SRI.MANSOOR.B.H.**

RESPONDENT(S):

**STATION HOUSE OFFICER,
MANNARKKAD POLICE STATION,
PALAKKAD DISTRICT-678 004.**

BY PUBLIC PROSECUTOR SRI.N. SURESH.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 16-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

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APPENDIX

PETITIONER'S ANNEXURES:-

**ANNEXURE A : TRUE COPY OF THE SEIZURE MAHAZAR DATED 11-07-2015
PREPARED BY THE RESPONDENT.**

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

ALEXANDER THOMAS, J.

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Dated this the 16th day of July, 2015.

ORDER

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

“To direct the respondent to permit the petitioner to compound the offence and to release the vehicle bearing KL 08.AE 9186 mentioned in Annexure A to the petitioner forthwith.”

2. The petitioner's Tipper Lorry bearing Reg.No.KL 08 AE 9186 was seized on 11.7.2015 as per Anx-A seizure mahazar for alleged violation of the provisions of the Mines and Minerals (Development and Regulation) Act. The allegation is that the said vehicle had illegally transported earth. It is pointed out that even till date no crime has been registered and that the case papers have been forwarded to the District Collector, who is said to be the confiscating authority. That the vehicle is still kept in the Mannarkkad Police Station in an open place without covering. In the light of these aspects that the petitioner has prayed that he may be permitted to seek the benefit of the provisions contained in the MMDR Act and the provisions under Rule 32 of the Rules framed thereunder.

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3. Heard Sri.B.H.Mansoor, learned counsel for the petitioner and learned Public Prosecutor appearing for the respondent-State of Kerala.

4. It has been held by this Court in the case Digil v. Sub Inspector of Police reported in 2013 (1) KLT 600 that the seizing authority like the Sub Inspector of Police concerned is duty bound to consider the application for compounding that may be preferred by the aggrieved person by invoking the provisions under Sec.23A of the MMDR Act and Rule 32 of the Kerala Minerals (Prevention of Illegal Mining, Storage and Transportation) Rules, 2015. It is indisputable that the offences in question are compoundable as envisaged under the statutory provisions. Accordingly, it is ordered in the interest of justice that it will be open to the petitioner to seek the benefit of the provision envisaged under Sec.23A of the MMDR Act and Rule 32 of the Rules and such application may be preferred before the Sub Inspector of Police, Mannarkkad Police Station along with a certified copy of this judgment. If such application is received, then the respondent-Station House Officer, Mannarkkad Police Station, Palakkad District shall consider the said request for compounding in the light of the provisions under Sec.23A of the MMDR Act and Rule 32 of the Rules and pass

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appropriate orders thereon within one week from the date of receipt of such petition. This shall be done notwithstanding the fact that the respondent has already forwarded the papers to the District Collector for confiscation proceedings. If the compounding prayer of the petitioner is allowed, then the petitioner shall, within the reasonable time, remit requisite payment fee for compounding, upon which the seized vehicle shall be forthwith released to the petitioner.

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

Sd/- ALEXANDER THOMAS,
Judge.

bkn/-