

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

FRIDAY, THE 7TH DAY OF AUGUST 2015/16TH SRAVANA, 1937

Crl.MC.No. 5032 of 2015 ()

PETITIONER(S)/ACCUSED:

1. VINOD, AGED 24 YEARS,
S/O.MANIKYAN, HOUSE NO.1/49, PALLATHOOR VILLAGE,
POCHAMPPALLY TALUK, KRISHNAGIRI, TAMILNADU.
2. ANIMON, S/O.VIJAYAN,
CHITHIRAVEETIL, VALLIKKUNNAM,
ALAPPUZHA.
3. GOVINDARAJ, AGED 25 YEARS,
S/O.MADHEYAN, HOUSE NO.2/245, BODHANAKA VILLAGE,
POCHAMPPALLY TALUK, KRISHNAGIRI, TAMILNADU.
4. ANEESH, AGED 32 YEARS,S/O.MOHANAN,
MALVILAYIL PUTHENVEETIL, KADUVINAL MURI,
VALLIKKUNNAM, ALAPPUZHA.
5. SAJI,S/O.SANTHAMMA,
KANDATHIL BUNGLOW, PUTHENCHANTHA,
VALLIKKUNNAM, ALAPPUZHA.
6. RANDEEP @ KANNAN, AGED 28 YEARS,
S/O.RAJENDRAN, RENJITH BHAVANAM, VALLIKKUNNAM,
ALAPPUZHA.
7. AJIMON, S/O.VIJAYAN,
SREEPARVATHY, VALLIKKUNNAM,ALAPPUZHA.

**BY ADVS.SRI.R.SUNIL KUMAR
SMT.A.SALINI LAL**

RESPONDENT :

**SUB INSPECTOR OF POLICE,
POLICE STATION, VALLIKKUNNAM.**

BY PUBLIC PROSECUTOR SRI.GITHESH.R.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 07-08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

sts

Crl.MC.No. 5032 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

ANNEX A : COPY OF THE R.C BOOK

ANNEX B : COPY OF THE MAHAZAR

RESPONDENT(S)' ANNEXURES: **NIL**

/TRUE COPY/

P.A.TO JUDGE

sts

ALEXANDER THOMAS, J.

=====

Crl.M.C.No.5032 of 2015

=====

Dated this the 7th day of August, 2015

O R D E R

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

“..... to direct the respondent to permit the petitioners to compound the offence and to release the vehicle bearing No.KL-31 D 6264, KL-31 D 9369, KL-25 4482, KL-31 D 4500 mentioned in Annexure B to the petitioners forthwith.”

2. Heard learned counsel appearing for the petitioners and the learned Public Prosecutor appearing for the respondent.

3. It is to be noted that Section 23 A of the Mines and Minerals (Development and Regulation) Act, 1957 provides for compounding offences which reads as follows:

"23A. Compounding of offences.-(1) Any offence punishable under this Act or any rule made thereunder may, either before or after the institution of the prosecution, 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:

Provided that in the case of an offence punishable with fine only, no such sum shall exceed the maximum amount of fine which may be imposed for that offence.

(2) 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."

4. This Court in series of decisions has held that when a

compounding application is given by the accused in a case involving offence under MMDR Act, then the Police Officer concerned who has seized the vehicle, is legally bound to consider that application and take a decision thereon in accordance with the provisions contained under Section 23 A of the MMDR Act. In the light of these aspects it is ordered that it is open to the petitioners to make an appropriate application for compounding the offence under Section 23 A of the MMDR Act before the respondent Sub Inspector of Police concerned and on receipt of such application the respondent Sub Inspector of Police shall take a decision thereon in accordance with the provisions contained in Section 23 A of the MMDR Act and intimate the petitioners about the details in that regard. It is made clear if the petitioners' request for compounding is permitted, then on their payment of the compounding fee as per the Act and the Rules, all further liabilities in pursuance of the impugned criminal proceedings will stand lawfully terminated and consequently, the seized vehicles shall also be returned to the petitioners forthwith after conclusion of such compounding process.

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

Sd/- ALEXANDER THOMAS, JUDGE