

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 10TH DAY OF AUGUST 2015/19TH SRAVANA, 1937

Crl.MC.No. 5145 of 2015 ()

**LP.NO. 58/2003 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, KUTHUPARAMBA
CRIME NO. 6/1994 OF KANNAVAM FOREST RANGE OFFICE, KANNUR DISTRICT**

PETITIONER/IST ACCUSED:

**NOUSHAD, AGED 43 YEARS,
S/O IBRAHIM, 8/4 MILE, KANNADI HOUSE,
KATTAYAD P.O., VELLAMUNDA VILLAGE,
MANANTHAVADY TALUK.**

**BY ADVS.SRI.KRISHNA PRASAD. S
SRI.B.SIBI
SRI.NOBEL RAJU**

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,
REPRESENTING FOREST DIVISIONAL OFFICER, KANNUR,
KANNAVAM RANGE.**

BY SPL.GOVERNMENT PLEADER SRI.M.PMADHAVAN KUTTY

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 10-08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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Crl.MC.No. 5145 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEX A1: A CERTIFIED COPY OF THE PRELIMINARY REPORT DATED 3.5.1994
 MADE IN O.R.NO.6 OF 1994 OF KANNAVAM FOREST RANGE .**

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

/TRUE COPY/

P.S.TO JUDGE

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ALEXANDER THOMAS, J.

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Crl.M.C.No.5145 of 2015

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Dated this the 10th day of August, 2015

ORDER

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

“Direct the Judicial First Class Magistrate Court, Koothuparamba to allow the petitioner or through counsel representing him, to compound the case bearing number LP.No.58 of 2003 before the competent authority of the forest department, as envisaged in section 68 of the Kerala Forest Act, 1961, recalling the warrant issued against the petitioner, in the interest of justice.”

2. Earlier when this matter had come up for consideration, this Court had requested Sri.M.P.Madhavankutty, learned Special Govt. Pleader (Forest) to get instructions in the matter.

3. It is pointed out by the Special Government Pleader (Forest) that the competent officer to consider and take a decision on the application for compounding as envisaged under Sec.68(1) of the Kerala Forest Act is the Assistant Conservator of Forest, Kannur in this case. Sec.68(1) of the Kerala Forest Act provides as follows:

“Sec.68. Power to compound offences.– (1) Any Forest Officer not below the rank of an Assistant Conservator of Forests may accept from any person reasonably suspected of having committed any forest offence other than an offence under Section 62 or Section 65, a sum of money by way of compensation for the offence which may have been committed and where any property has been seized as liable to confiscation, may release the same on payment of the value

thereof as estimated by such officer or confiscate such property to the Government.”

4. Heard Sri.Krishna Prasad, learned counsel for the petitioner and Sri.M.P.Madhavankutty, learned Special Govt. Pleader (Forest) appearing for the respondent State of Kerala.

5. In the facts and circumstances of this case, it is ordered in the interest of justice that in case the petitioner submits an appropriate application for compounding of the offence in question as provided in Sec.68(1) of the Kerala Forest Act before the Assistant Conservator of Forest, Kannur, within a period of two weeks from today, then the same shall be considered by the said officer and a decision may be taken on the said request for compounding of the offence within a period of two weeks thereafter, in accordance with law. It is further ordered in the interest of justice that until a decision is taken as aforesaid, further coercive proceedings in pursuance of the execution of the impugned warrant issued against the petitioner will remain under suspension. It is further made clear that if the competent officer permits the prayer of the petitioner for compounding of the offence, then all further proceedings in pursuance of the impugned criminal proceedings will stand lawfully terminated. The competent officer

shall communicate the proceedings on the decision taken by him as
aforestated to the petitioner by registered speed post.

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

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ALEXANDER THOMAS, JUDGE
///True copy///

P.S. to Judge