

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 17TH DAY OF AUGUST 2015/26TH SRAVANA, 1937

Crl.MC.No. 5481 of 2015

ORDER IN Crl.MC.NO.5032 OF 2015, DATED 07.08.2015

PETITIONER(S)/ACCUSED:

- 1. SHANKER LAL, AGED 27 YEARS,
S/O.SHYAM LAL, MANGIZHIYIL VEETIL, MANAPPALLY,
VADAKKUM MURI, PAVUMBA VILLAGE, KARUNAGAPPALLY,
ALAPPUZHA DISTRICT.**
- 2. SHABU,
PALAVILA PADEETTATHIL, VALLIKKUNNAM,
ALAPPUZHA DISTRICT.**

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

RESPONDENT(S) :

**STATE OF KERALA THROUGH, SUB INSPECTOR OF POLICE,
POLICE STATION, VALLIKKUNNAM,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.P.MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 17-08-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

ANNEXURE-A: COPY OF THE R.C BOOK.

ANNEXURE-B: COPY OF THE MAHAZAR.

ANNEXURE C: COPY OF THE ORDER IN CRL.MC NO.5032/2015.

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

ALEXANDER THOMAS, J.

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Crl.M.C.No. 5481 of 2015

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Dated this the 17th 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-09 T 4113 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:

“Sec.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 a 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 vehicle 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.

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///True copy///

Sd/-
ALEXANDER THOMAS, JUDGE

P.S. to Judge

