

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 20TH DAY OF AUGUST 2015/29TH SRAVANA, 1937

Crl.MC.No. 5664 of 2015

JUDGMENT DATED 07-08-2015 Crl.MC 5032/2015.
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PETITIONER(S)/ACCUSED:

- 1. SYAMPRASAD, AGED 26 YEARS,
S/O.SASIDHARAN, KOCHUMADATHIL HOUSE,
ULAVAKKAD MURI, PALAMEL VILLAGE (P.O.)**
- 2. PRADEEP, AGED 36 YEARS, S/O.SUBRAMANYAN,
MULAMOOTTIL KIZHAKKATHIL HOUSE,
ERUMAKUZHAY MURI, PALAMEL VILLAGE P.O.**

**BY ADVS.SRI.NIRMAL V NAIR
SMT.ASHA ELIZABETH MATHEW**

RESPONDENT:

**SUB INSPECTOR OF POLICE,
POLICE STATION, NOORANADU - 690 504.**

BY PUBLIC PROSECUTOR SRI.RAJESH VIJAYAN

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 20-08-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEXURE A1:** **A TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF JCB EXCAVATOR BEARING REGISTRATION NO: KL-31-D-2889.**
- ANNEXURE A2:** **A TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF TIPPER LORRY BEARING REGISTRATION NO: KL-03-Q-6226.**
- ANNEXURE A3:** **A TRUE COPY OF THE MAHAZAR PREPARED BY THE RESPONDENT IN RESPECT OF THE SEIZURE OF THE VEHICLES DRIVEN BY THE PETITIONERS.**
- ANNEXURE A4:** **A TRUE COPY OF THE JUDGMENT DATED 7/8/2015 OF THIS HON'BLE COURT IN CRL.MC.5032/2015.**

RESPONDENTS' ANNEXURES: **NIL.**

//TRUE COPY//

P.S. TO JUDGE

mbr/

ALEXANDER THOMAS, J.

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Crl.M.C No.5664 of 2015

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Dated this the 20th day of August, 2015

ORDER

The prayers in this Crl.M.C. are as follows:

“i. Direct the Respondent to permit the petitioners to compound the offence in Annexure A3 and to release JCB Excavator bearing Registration No: KL-31-D-2889 and the Tipper Lorry bearing registration No.KL-03-Q-6226.

ii. Pass such other orders or issue such other Directions as this Hon'ble Court may deem just and proper to issue in the circumstances of the case.”

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 vehicles, 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.

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ALEXANDER THOMAS, JUDGE