

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. 5667 of 2015 ()

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AGAINST THE PROCEEDINGS IN MMDR/2/15/K2 OF NOORANAD POLICE STATION,
ALAPPUZHA DISTRICT
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PETITIONER :

**MATHEW DANIEL
S/O.DANIEL, AGED 42 YEARS
MANGALATHU PADINJATTETHIL, ELAMPALLIL
PARAKOOTTAM P.O., PATHANAMTHITTA DIST., PIN- 690 501.**

BY ADV. SRI.M.G.SREEJITH

RESPONDENT :

**SUB INSPECTOR OF POLICE
NOORANAD POLICE STATION, ALAPPUZHA DISTRICT
PIN- 690 510, THROUGH THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA- 682 031.**

BY PUBLIC PROSECUTOR SMT. P. MAYA

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

Mn

...2/-

Crl.MC.No. 5667 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES :

**ANNEXURE A1: TRUE COPY OF THE REGISTATION CERTIFICATE DATED
 19/4/2010.**

ANNEXURE A2: TRUE COPY OF THE MAHAZAR DATED 18/8/2015.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

ALEXANDER THOMAS, J.

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Crl.M.C No.5667 of 2015

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Dated this the 20th day of August, 2015

O R D E R

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

“..... to pass an order directing the respondent to act in strict compliance with the provision under section 22 of the MMDR Act and further direct the respondent SI of Police, Nooranad, Alappuzha in the proceedings regarding seizure of vehicle bearing Reg.No.KL-24-B-6835 is to be initiated before the Magistrate having jurisdiction to take cognizance of the matter and quash the Annexure -A2”

2. Heard learned counsel appearing for the petitioner 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 petitioner 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 petitioner about the details in that regard. It is made clear if the petitioner's 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 petitioner forthwith after conclusion of such compounding process.

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

sd/-

sab

ALEXANDER THOMAS, JUDGE