

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936

CrI.MC.No. 4949 of 2014 ()

IN CC 1894/2013 of JUDICIAL MAGISTRATE COURT-I,HOSDRUG

PETITIONER(S)/ACCUSED:

- 1. SANEESH T
S/O.BHARATHAN, ORCHA HOUSE, KOTTAPURAM
NILESWARAM, KASARAGOD - 671 314.**
- 2. PRASANTH M
S/O. PADMANABHAN, ORCHA HOUSE, KOTTAPURAM
NILESWARAM, KASARAGOD - 671 314.**

**BY ADVS.SRI.RAHUL SASI
SMT.NEETHU PREM**

RESPONDENT(S)/COMPLAINANT:

- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. DISTRICT COLLECTOR,
KASARAGOD - 671 123.**
- 3. SUB COLLECTOR,
KASARAGOD AT KANHANGAD, KANHANGAD
KASARAGOD - 671 315.**
- 4. THE STATION HOUSE OFFICER,
HOSDURG POLICE STATION, KANHANGAD P.O.
KASARAGOD - 671 310.**
- 5. DIRECTOR OF MINING AND GEOLOGY
CHEMICAL LAB, KESAVADASAPURAM, PATTAM P.O.
THIRUVANANTHAPURAM - 695 004.**

R BY PUBLIC PROSECUTOR SMT. P. MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 4949 of 2014 ()

APPENDIX

PETITIONERS ANNEXURES:

**A-1 A TRUE COPY OF THE FINAL REPORT IN CCNO.1894/2013 ON THE FILES OF
THE JUDICIAL MAGISTRATE COURT I, HOSDURG**

**A-2 A TRUE COPY OF THE ORDER DATED 23.05.2014 OF THE PROCEEDINGS OF
THE SUB COLLECTOR, KASARGOD AT KANHANGAD**

RESPONDENTS ANNEXURES: NIL

/TRUE COPY/

**PA TO JUDGE
sab**

P.UBAID, J.

Crl. M.C No. 4949 of 2014

Dated this the 3rd day of February, 2015.

O R D E R

The petitioners herein are the accused in a prosecution brought by complaint under Sections 20 and 21 of the Kerala Protection of River Banks and Regulation of Removal of Sand Act (Sand Act). It appears that the crime was originally registered under the MMDR Act. The police brought complaint on 6.5.2014. On 23.5.2014 composition under the MMDR Act was allowed by the Sub Collector, Kasaragod. Annexure 2 is that proceeding dated 23.5.2014. The Sub Collector allowed composition in view of the Lab report that the property involved is not river sand but ordinary sand. Anyway composition was allowed, and accordingly the petitioner remitted the penalty of Rs.10,000/-. Still the prosecution continues. The Annexure 2 proceeding will show that the sand involved in the case is not river sand. If so, the prosecution under the Sand Act cannot be sustained. Anyway, the petitioner has remitted the penalty imposed by the Sub Collector, and there is definite report that the sand involved is not river sand. In such a situation the prosecution brought under the Sand Act will have to be

quashed.

In the result, this petition is allowed. The prosecution against the petitioners in C.C No.1894/2013 of the Judicial First Class Magistrate Court-I, Hosdurg will stand quashed under Section 482 Cr.P.C Accordingly, the petitioners will stand released from prosecution, and the bail bond, if any, executed by them will stand discharged.

P.UBAID,

JUDGE

sab