

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

Crl.MC.No. 5260 of 2014 ()

**IN CMP 2338/2014 of JUDL.MAGISTRATE OF FIRST CLASS, MANJERI
CRIME NO. 442/2014 OF MANJERI POLICE STATION , MALAPPURAM**

PETITIONER(S)/ACCUSED:

**MUHAMMED IJAS K
S/O.ABDUL KAREEM, THENCHERI HOUSE, V.K.PADI
PANNIPPARA, MALAPPURAM DISTRICT.**

BY ADV. SRI.T.K.AJITH KUMAR

RESPONDENT(S)/RESPONDENT:

**STATE OF KERALA
THROUGH THE SUB INSPECTOR OF POLICE, MANJERI
MALAPPURAM DISTRICT
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**

R BY PUBLIC PROSECUTOR SMT. S. HYMA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 21-01-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 5260 of 2014 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A- CERTIFIED COPY OF THE FIRST INFORMATION REPORT IN CRIME NO.442 OF 2014 OF MANJERI POLICE STATION.

ANNEXURE B- TRUE COPY OF THE ORDER DATED 5.5.2014 PASSED BY THE JUDICIAL FIRST CLASS MAGISTRATE COURT, MANJERI IN CMP NO.2338/2014.

ANNEXURE C- TRUE COPY OF THE ACKNOWLEDGMENT FOR RECEIPT OF MONEY DATED 6.5.2014 ISSUED FROM THE JUDICIAL FIRST CLASS MAGISTRATE COURT-1, MANJERI.

ANNEXURE D- CERTIFIED TRUE COPY OF THE ANALYTICAL REPORT DATED 2.7.2014 OF THE CHEMICAL LAB, DIRECTORATE OF MINING AND GEOLOGY, THIRUVANANTHAPURAM.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 5260 of 2014

Dated this the 21st day of January, 2015.

O R D E R

The petitioner herein is the registered owner of the vehicle No. KL-13-T-7688. On the allegation that he was on transporting river sand illegally in the said vehicle, the Sub Inspector of Police, Manjeri registered a case against him under the provisions of the Protection of River Banks and Regulation of Removal of Sand Act, 2001 as Crime No.442/2014. Pending investigation, the sand was sent for chemical examination. On examination in the Laboratory, the chemist reported that the material is crushed weathered rock and not river sand. On the basis of the said report, the petitioner brought this petition under Section 482 Cr.P.C to quash the prosecution. The Station House Officer was required by this court to file a report regarding the report of chemical analysis. Now the learned Public Prosecutor submits that there is such a report that the property involved is not in fact river sand, and that the prosecution under the Special Act cannot be sustained. In view of the report of chemical analysis I find that the police cannot proceed with the prosecution, because transportation of crushed weathered

rock will not constitute the offence punishable under the Protection of River Banks and Regulation of Removal of Sand Act. I find that such prosecution is liable to be quashed, because continuance of proceeding in such a situation will be abuse of legal process.

In the result, this petition is allowed. The FIR and further proceedings in crime No.442/2014 of the Manjeri Police Station will stand quashed.

P.UBAID,
JUDGE

sab