

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

Crl.MC.No. 7374 of 2014 ()

AGAINST THE ORDER IN CC 1360/2014 of J.M.F.C.,KUTHUPARAMBA DATED
CRIME NO. 1360/2014 OF MALOOR POLICE STATION , KANNUR

PETITIONER/ACCUSED:

MUJEEB RAHMAN AGED 35 YEARS
S/O.EASSA, PUTHIYAPURAYIL HOUSE, ULIYIL
CHAVASSERY P.O., KEEZHUR CHAVASSERY VIA
KANNUR DISTRICT.

BY ADVS.SRI.E.C.BINEESH
SMT.M.B.SHYNI

RESPONDENTS/COMPLAINANT:

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1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.
 2. SUB-INSPECTOR OF POLICE
MALOOR POLICE STATION, KANNUR DISTRICT, PIN 670702.

BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
11-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 7374 of 2014 ()

APPENDIX

PETITIONER'S EXHIBITS

- ANNEXURE-I: COPY OF JUDGMENT DATED 13/1/2014 OF THIS HON'BLE COURT IN WP(C) 821/2014.
- ANNEXURE-II: A TRUE COPY OF THE PROCEEDINGS BEFORE THE SUB-DIVISIONAL MAGISTRATE, THALASSERY DATED 19/6/2014.
- ANNEXURE-III: A TRUE COPY OF THE RELEASING ORDER NO.G.1066A/2014 PASSED BY THE LEARNED SUB-DIVISIONAL MAGISTRATE COURT, THALASSERY.
- ANNEXURE-IV: A TRUE COPY OF THE CHARGE SHEET IN CRIME NO.398/2013 OF MALOOR POLICE STATION.

RESPONDENTS' EXHIBITS

NIL

/TRUE COPY/

P.A. TO JUDGE

SJ

P. UBAID, J.

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Crl.M.C. No.7374 of 2014

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Dated this the 11th day of February, 2015

ORDER

The petitioner herein seeks orders quashing the prosecution against him in C.C.No.1360/2014 of Judicial First Class Magistrate Court, Koothuparamba, brought under the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001 (Sand Act). The police registered a crime against the petitioner on the allegation that he was found transporting river sand illegally. During investigation, report of examination revealed that it is not river sand. In such a situation the Executive Magistrate allowed composition of the offence under the MMDR Act. The petitioner has also remitted the amount of penalty imposed by the Executive Magistrate. However, prosecution happened to be filed in Court by the Station House Officer. Instead of filing a complaint, the Sub Inspector filed final report under Section 173(2) Cr.P.C. There is clear bar of cognizance under the Sand Act that cognizance is possible only on a complaint made by the authorised officer. Cognizance on a final report under Section 173 Cr.P.C is barred. Even otherwise,

the prosecution is liable to be quashed because the sand is not river sand, and the possible prosecution under the MMDR Act stands compounded also. In such a situation the prosecution is liable to be quashed.

In the result, this petition is allowed. The prosecution against the petitioner in C.C.No.1360/2014 of the Judicial First Class Magistrate Court, Koothuparamba will stand quashed under Section 482 Cr.P.C. Accordingly, the Crl.M.C will stand allowed and bailable bond, if any, executed by the petitioner will stand discharged.

P. UBAID, JUDGE

sj