

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 5TH DAY OF JANUARY 2015/15TH POUSHA, 1936

WP(C).No. 104 of 2015 (K)

PETITIONER(S):

**BIJU R, AGED 34 YEARS
S/O.RAMAKRISHNAN, BINDU TYLORS, CHADAYANKALAI
KANJIKODE WEST, KANJIKODE P.O, PALAKKAD DISTRICT
(REGISTERED OWNER OF VEHICLE KL.09/Y.5356).**

BY ADV. SRI.SHOBY K.FRANCIS

RESPONDENT(S):

**THE VILLAGE OFFICER,
VADAKARAPPATHY VILLAGE OFFICE,
VADAKARAPPATHY P.O,
MENON PARA, CHITTUR TALUK, PALAKKAD DISTRICT.**

BY GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1. COPY OF REGISTRATION CERTIFICATE OF THE VEHICLE KL.09.Y.5356
DATED 12.4.10.**

**EXHIBIT P2. COPY OF CASH BILL ISSUED BY THE BALAJI TRADERS DATED
29.12.14 TO THE PETITIONERS VEHICLE.**

**EXHIBIT P3. COPY OF THE SEIZURE MAHAZAR DATED 29.12.14 ISSUED TO THE
PETITIONERS VEHICLE KL.09.Y.5356.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No.104 OF 2015
.....

Dated this the 5th January, 2015

J U D G M E N T

The petitioner, who is the owner of the vehicle bearing No. KL.09/Y-5356, is aggrieved of the seizure of the vehicle on 29.12.2014, alleging illegal transportation of M-sand. The petitioner is questioning the authority of the respondent /Village Officer, who seized the vehicle.

2. The learned Government Pleader points out that the authority of the respondent/Village Officer to seize the vehicle, with reference to the relevant provisions of the MMDR Act/KMMC Rules had already come up for consideration before this Court and as per the judgment reported in **2014(1) KLT 536** [***Aloshias C.Antony vs. Government of Kerala***] the position has been answered against the persons like petitioner . The learned Counsel for the petitioner submits that the petitioner is ready to compound the offence and that an opportunity might be given to get the vehicle released after satisfying the compounding fee.3.

3. The issue involved in this case is, whether the petitioner, who has been proceeded against in respect of the

offences under the Mines and Mineral (Development and Regulation) Act, 1957 and the Kerala Minor Mineral Concession Rules, 1967 is entitled to have the offence compounded in view of the desire expressed from his side in this regard.

4. Heard the learned Government Pleader as well.

5. Section 23A of the 'Act and Rule 60A of the Rules enable the parties to have the offence compounded. The Rules specifically stipulate that any offence under the Rules can be compounded subject to the satisfaction of the maximum fine prescribed under the Rules, which is stated as Rs.5,000/-. But in respect of the transportation of sand/earth without any valid pass/sanction, it is stated as an offence under the 'Act' itself by virtue of the incorporation of Section 4(1A), for which separate penalty is provided under the 'Act' itself. The maximum fine in respect of such offence prescribed under the 'Act' is stated as **Rs.25,000/-**. It was in the said circumstance, that this Court has been passing various orders in similar matters enabling the concerned parties to have the interim custody of the vehicle on satisfaction of a sum of **Rs.25,000/-** and also by directing the concerned respondent to consider the application for

compounding, if any.

6. A question arose before this Court as to whether the prosecution proceedings could be pursued further, once the offence is compounded in accordance with the relevant provisions. This issue has already been considered and decided by this Court in **2013 (1) KLT 600 (Digil v. Sub Inspector of Police)**, holding that, once the offence is compounded, there cannot be any further prosecution proceedings.

7. In view of the law declared as mentioned herein before, there will be a direction to the concerned respondent to accept the application to be filed by the petitioner to compound the offence; which shall be considered and appropriate orders shall be passed forthwith, subject to satisfaction of a sum of **Rs.25000/-** as the compounding fee. Once the offence is compounded, no prosecution proceedings shall lie against the petitioner.

The writ petition is disposed of.

P.R.RAMACHANDRA MENON
JUDGE

/k

W.P.(C)No.104 OF 2015