

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. 107 of 2015 (K)

PETITIONER(S):

**SUNIL P.V., AGED 44 YEARS,
S/O.VELAYUDHAN, PULLANIPARAMBATH HOUSE, ELAVALLY P.O.,
CHAVAKKAD TALUK, THRISSUR DISTRICT,
(REGISTERED OWNER OF THE VEHICLE KL-12-C/606).**

BY ADV. SRI.SHOBY K.FRANCIS

RESPONDENT(S):

**THE SUB INSPECTOR OF POLICE,
GURUVAYOOR POLICE STATION, GURUVAYOOR P.O.,
THRISSUR - 680 001.**

BY GOVERNMENT PLEADER SRI.JOSEPH GEORGE

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

msv/

WP(C).No. 107 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1. TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE VEHICLE
KL-12/C-606 DATED 31.03.2005.**

**EXHIBIT P2. TRUE COPY OF THE SEIZURE MAHAZAR DATED 29.12.2014 ISSUED TO
THE PETITIONER.**

**EXHIBIT P3. TRUE COPY OF THE REQUEST DATED 30.12.2014 SUBMITTED BY THE
PETITIONER TO THE RESPONDENT.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No.107 OF 2015
.....

Dated this the 5th January, 2015

J U D G M E N T

The petitioner has approached this Court with the following prayers:

- "i) issue a writ of mandamus directing the respondent to release the vehicle KL.12/C-606 mentioned in Exhibit P2 to the petitioner forthwith after receiving the compounding fee;*
- ii) issue a writ of mandamus directing respondent to receive, consider and dispose of Exhibit P3 application submitted by the petitioner for compounding the offence and pass orders on the same within a time limit and release the vehicle immediately thereafter to the petitioner.*
- iii) issue such other relief as this Hon'ble Court may think deem fit in the facts and circumstances of the case."*

2. The petitioner is the owner of the vehicle bearing No.KL.12/C-606, whose vehicle has been seized by the respondent/Sub Inspector of Police alleging violation of Rule 48K of the Kerala Minor Mineral Concession Rules, 1967. The learned Counsel for the petitioner submits that the petitioner is ready to compound the offence.

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 connected similar matters enabling the concerned petitioners to have the interim custody of the vehicle released 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 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