

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 9TH DAY OF JANUARY 2015/19TH POUSHA, 1936

WP(C).No. 778 of 2015 (V)

PETITIONER(S):

**THOMAS JOSEPH, AGED 42 YEARS,
S/O.JOSEPH, VALIYAPARAMBIL HUSE, PERIAMPAIKAVU P.O.,
KOTTAYAM DISTRICT.**

**BY ADVS.SRI.T.A.UNNIKRISHNAN
SRI.K.S.PRAVEEN**

RESPONDENT(S) :

- 1. THE SUB INSPECTOR OF POLICE,
PALLEEKKATHODU POLICE STATION,
KOTTAYAM DISTRICT, PIN-686 001.**
- 2. THE DISTRICT COLLECTOR,
KOTTAYAM, PIN-686 001.**

BY SR.GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

WP(C).No. 778 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1:** TRUE COPY OF THE MAHAZAR DATED 04/01/2015 PREPARED BY
THE 1ST RESPONDENT.
- EXT.P2:** TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE VEHICLE
BEARING REGISTRATION NO.KL-05-Q-5866.
- EXT.P3:** TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE VEHICLE
BEARING REGISTRATION KL-05-X-5852.
- EXT.P4:** TRUE COPY OF THE COMMUNICATION DATED 15/12/2014 ISSUED BY
THE DAIRY EXTENSION OFFICER, PAMPADY.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No.778 OF 2015
.....

Dated this the 9th January, 2015

J U D G M E N T

The petitioner is the owner of a tipper lorry bearing Registration No. **KL.05/Q 5866** and excavator (JCB) bearing Registration No.**KL.05X-5852**, which have been seized by the 1st respondent/Sub Inspector alleging violation of relevant provisions of the Mines and Mineral(Regulations and Development)Act, 1957/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 similar matters enabling the concerned parties 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/- for each vehicle** as the compounding fee. Once the offence is compounded, no prosecution proceedings shall lie against the petitioner. The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the concerned respondent for further steps.,

The writ petition is disposed of.

P.R.RAMACHANDRA MENON
JUDGE

/k