

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

WP(C).No. 1111 of 2015 (L)

PETITIONER(S):

- 1. DEVACHANDRAN, AGED 38 YEARS
S/O.RAMAN, NARIYAMKUNNATH, ELAD P.O.,
ELAMKULAM VILLAGE, PERINTHALMANNA TALUK
MALAPPURAM DISTRICT (OWNER OF LORRY
BEARING REGISTRATION NO.KL-53-D-1657).**
- 2. BRIJESHKUMAR, AGED 26 YEARS
S/O.MATHAI, MANTHATTIKUNNEL, POONCHOLA P.O.
PALAKAYAM VILLAGE, MANNARAKKAD TALUK,
PALAKKAD (OWNER OF A JCB
BEARING REGISTRATION NO.KL-18-B-6386).**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

**THE SUB INSPECTOR OF POLICE
CHERUPPLASSERY POLICE STATION
PALAKKAD DISTRICT-678534.**

BY GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

WP(C).No. 1111 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT-P1: TRUE COPY OF THE MAHASAR DATED 10.1.2015 PREPARED BY THE
RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R. RAMACHANDRA MENON, J.

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W.P.(C)No.1111 OF 2015
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Dated this the 13th January, 2015

J U D G M E N T

The petitioners have approached this Court with the following prayers:

- "1) issue a writ of mandamus or any other appropriate writ, order or direction directing the third respondent to give an opportunity to the petitioner for compounding alleged offence under Section 60(A)(1) of the Kerala Minor Mineral Concession Rules, 1967*
- 2) Direct the third respondent to release the vehicles to the petitioners after compounding the offence.*
- 3) issue such other writ or orders or directions, which this Honourable Court may deem fit and proper in the the interest of justice and circumstances of the case. ."*

2. First petitioner is the owner of the vehicle bearing No.**KL.53D/1657** and the second petitioner is the owner of the vehicle bearing No.**KL.18B/6386**. The above vehicles have been seized by the respondent/Sub Inspector of Police, alleging violation of the relevant provisions of the Kerala Minor Mineral Concession Rules, 1967. The learned Counsel for the petitioners submits that the petitioners are ready to compound the offence.

3. The issue involved in this case is, whether the petitioners, who have 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 are entitled to have the offence compounded in view of the desire expressed from their 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 respondent/Sub Inspector to accept the application filed by the petitioners 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 petitioners. The petitioners shall produce a copy of

W.P.(C)No.1111 OF 2015

4

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**

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