

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

WP(C).No. 1394 of 2015 (Y)

PETITIONER :

**SANAL KUMAR,
S/O.NELSON, THACHODE PUTHEN VEEDU,
THALACHANVILA, PARASSALA.P.O., THIRUVANANTHAPURAM.**

BY ADV. SRI.SHAJIN S.HAMEED

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
THIRUVANANTHAPURAM, OFFICE OF THE DISTRICT COLLECTOR,
KUDAPPANAKKUNU, THIRUVANANTHAPURAM,PIN-695 001**
- 2. THE SUB INSPECTOR OF POLICE, NEMOM POLICE STATION,
THIRUVANANTHAPURAM DISTRICT,PIN-695 020**

R1 & R2 BY SR GOVERNMENT PLEADER SRI.MUHAMMED SHAFI.M.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).NO.1394/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE REGISTRATION PARTICULARS OF THE VEHICLE BEARING
REGISTRATION NUMBER KL-01-AE-8953.**
- P2 COPY OF THE MAHAZAR DATED 12/01/2015 PREPARED BY THE SUB
INSPECTOR OF POLICE NEMOM POLICE STATION.**
- P3 COPY OF THE COMPOUNDING PETITION FILED BY THE PETITIONER BEFORE
THE 2ND RESPONDENT DATED 13/01/2015.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.S.TO.JUDGE

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P.R. RAMACHANDRA MENON, J.

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WP.(C) No.1394 OF 2015
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Dated this the 15th January, 2015

J U D G M E N T

The petitioner is the owner of the vehicle bearing No. KL.01.AE-8953. The above vehicle has been seized by the second respondent/Sub Inspector of Police alleging violation of the relevant provisions of Mines and Minerals (Development and Regulation) Act, 1957 and the Kerala Minor Mineral Concession Rules, 1967. The learned Counsel for the petitioner submits that the petitioners are 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 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 second respondent/Sub Inspector 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 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

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