

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

WP(C).No. 3078 of 2015 (H)

PETITIONER:

**SHAMEER, S/O JABBAR, AGED 32 YEARS,
KATTILPEEDIKA, MAMBARA, PIRAYIRI VILLAGE,
KODUNTHIRAPPULLY.P.O, PALAKKAD TALUK,
PALAKKAD DISTRICT(OWNER OF LORRY BEARING
REGISTRATION NO.KL-08-AA-116).**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

- 1. THE SUB INSPECTOR OF POLICE,
KOLLENGODE POLICE STATION,
PALAKKAD DISTRICT, PIN-678613.**
- 2. THE VILLAGE OFFICER,
VADAVATHOOR VILLAGE,
PALAKKAD DISTRICT-678613.**

BY GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 12-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

WP(C).No. 3078 of 2015 (H)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1 : TRUE COPY OF THE SEIZURE MAHAZAR DATED 20.1.2015 PREPARED
BY THE RESPONDENT.**

**EXT.P2 : TRUE COPY OF THE CERTIFICATE DATED 20.1.2015 ISSUED BY THE
SECOND RESPONDENT.**

EXT.P3 : TRUE COPY OF THE G.O.NO.12/14/ENV.T.DATED 15.11.2014.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 3078 of 2015

Dated this the 12th day of March, 2015

J U D G M E N T

The petitioner is aggrieved by the seizure of the vehicle bearing No.KL-08-AA-116 by the 1st respondent on 20.01.2015 alleging that the petitioner has committed offence under MMDR Act, 1957/KMMC Rules.

2. When the matter came up for consideration before this Court on 30.01.2015, the interim custody of the vehicle was ordered to be released subject to satisfaction of a sum of Rs.25,000/-.

3. The learned counsel for the petitioner submits that, the said amount has already been deposited. It is also stated that the petitioner is desirous to compound the offence by virtue of the enabling provisions under the stature.

4. Heard the learned Government Pleader as well.

5. Section 23A of the 'Act' and the relevant 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' by virtue of the incorporation of Section 4(1A), for which separate penalty is provided under the 'Act' itself. It was in the said circumstance, that this Court has passed orders enabling the parties to have interim custody of the vehicle, on satisfaction of a sum of Rs.25,000/-, also 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 willingness expressed from the part of the petitioner to have the offence compounded, conceding the guilt, this Court finds it fit and proper to permit the petitioner to compound the offence on filing an application in this regard

before the 1st respondent. The amount already remitted pursuant to the interim order shall be treated as the compounding fee. It is ordered accordingly. It is made clear that once the offence alleged against the petitioner is compounded, no prosecution proceedings shall be pursued against him.

The writ petition is disposed of accordingly. The petitioner shall produce a copy of this judgment along with a copy of this writ petition before the 1st respondent for further steps.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.