

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

WP(C).No. 4008 of 2015 (A)

PETITIONER :

**SUNDARESAN, AGED 49 YEARS,
RAMESH BHAVANAM, VALLIKUNNAM P.O., MAVELIKKARA**

BY ADV. SRI.PRASAD CHANDRAN

RESPONDENTS :

- 1. THE DISTRICT GEOLOGIST
MINING AND GEOLOGY DEPARTMENT,
PATHANAMTHITTA DIST - PIN-689645**
- 2. THE DEPUTY TAHSILDAR,
TALUK OFFICE, KARUNAGAPPALLY, 690547**
- 3. THE SUB INSPECTOR OF POLICE,
KARUNAGAPPALLY POLICE STATION, PIN-690547**

R1 TO R3 BY GOVERNMENT PLEADER SRI. MUHAMMED SHAFI M

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

WP(C).No. 4008 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1:- TRUE COPY OF THE REGISTRATION PARTICULARS IN RESPECT OF
KKL-31/605**
- P2:- TRUE COPY OF THE ORDER OF THE IST RESPONDENT DTD 28/1/2015.**
- P3:- TRUE COPY OF THE P FORM DTD 2/2/2015 ISSUED TO THE PETITIONER BY
THE IST RESPONDENT.**
- P4:- TRUE COPY OF THE FIR IN CRIME NO 320/2015 DTD 2/2/2015 OF
KARUNAGAPPALLY POLICE STATION**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.4008 of 2015

Dated this the 12th day of February, 2015

JUDGMENT

Petitioner is the owner of the vehicle bearing Registration No.KL-31/605 as evident from Ext.P1 Certificate of Registration. The said vehicle was intercepted at 6.45 pm on 02.02.2015 as evident from Ext.P4 Mahazar, alleging unauthorised transportation of ordinary earth in contravention of the relevant provisions of the MMDR Act/KMMC Rules. It is stated that, a crime has also been registered as Crime No.320 of 2015 before the Karunagappally Police Station. According to the petitioner, the seizure is per se wrong and illegal in all respects, as the transportation was being effected on the strength of Ext.P3 valid pass and hence the writ petition.

2. Heard the learned Government Pleader as well, who submits that the seizure has already been reported to the Magistrate's Court and that necessary proceedings have been forwarded.

3. During the course of hearing, it is brought to the notice

of this Court that, Ext.P3 pass was issued on 02.02.2015 only at 6.36 pm from the place of business of the concerned dealer at Vadakkadathukavu. The seizure was effected at Shappumukku Junction of the Manappally Anayadi Road, as evident from Ext.P4. The inconsistencies with regard to the case projected by the petitioner, as to the possession of valid pass at the time of seizure, is sought to be asserted.

4. The learned counsel for the petitioner submits that the petitioner might be permitted to compound the offence. It is settled over that, once the offence is compounded, no other prosecution proceedings will lie in view of the ruling rendered by this Court as reported in 2013 (**2013 (1) KLT 600 (Digil v. Sub Inspector of Police)**).

5. After hearing both the sides, the petitioner is set at liberty to compound the offence in view of the enabling provision, particularly under Section 23A of the Act and Rule 60A of the Rules.

6. Coming to the extent of amount to be satisfied as compounding fee, 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 was passing orders enabling the party 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.

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 direct the 2nd respondent to compound the offence, if the petitioner satisfies a sum of **Rs.25,000/-**. It is ordered accordingly. On satisfaction of the compounding fee, the vehicle shall be released to the petitioner forthwith. 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 stands disposed of accordingly.

The petitioners shall produce a copy of this judgment, along with a copy of the writ petition, before the 2nd respondent, for further steps.

**P.R. RAMACHANDRA MENON,
JUDGE**

sp