

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. 4219 of 2015 (B)

PETITIONER :

**SAJEEV, AGED 40 YEARS,
RAMLA MANZIL, VALLIKUNNAM, MAVELIKKARA,
ALAPPUZHA DIST, PIN-690501**

BY ADV. SRI.M.G.SREEJITH

RESPONDENTS :

- 1. SUB INSPECTOR OF POLICE,
OACHIRA POLICE STATION, KOLLAM DIST-691001**
- 2. THE ADDL.TAHSILDAR, MAVELIKKARA,
ALAPPUZHA DIST-690501**

R1 & R2 BY GOVERNMENT PLEADER SRI. JOSEPH GEORGE

**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. 4219 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

P1:- TRUE COPY OF THE REGISTRATION CERTIFICATE DTD 3/10/2011 ISSUED BY THE SECRETARY, RTA, MAVELIKKARA.

P2:- TRUE COPY OF THE FIR NO 188 DTD 5/2/2015 ISSUED BY THE 1ST RESPONDENT.

P3:- THE TRUE COPY OF ORDER DTD 30/1/2015 ISSUED BY THE 2ND RESPONDENT

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.4219 of 2015

Dated this the 12th day of February, 2015

JUDGMENT

The vehicle bearing Registration No.KL-31-C-9819, belonging to the petitioner, was seized by the respondent on 05.02.2015 alleging violation of the provisions of Section 4(1)(a) of the MMDR Act read with KMMC Rules. Ext.P2 is the FIR with regard to the registration of the crime.

2. The case of the petitioner is that, the transportation was being effected on the strength of valid document, a copy of which has been produced as Ext.P3. The number of the vehicle belonging to the petitioner is also mentioned therein. As such, the seizure is per se wrong and illegal in all respects, submits the learned counsel.

3. Heard the learned Government Pleader as well.

4. Going by the pleadings and proceedings, this Court finds that, though necessary permit was issued by the concerned authorities of the Revenue Department as per Ext.P3 for transporting the ordinary earth excavated, issuance of P Forms

by the concerned Geologist was necessary in view of the specific provisions under the statute. It was in the said circumstances, that the petitioner sought for time to produce necessary P Form, when the matter came up for consideration yesterday.

5. Today, when the matter is taken up for consideration, the learned counsel for the petitioner submits that, the petitioner is ready 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 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 petitioner shall produce a copy of this judgment, along with a copy of the writ petition, before the respondent, for further steps.

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