

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. 4704 of 2015 (K)

PETITIONER(S):

1. JAYAMON, S/O. KURIAN, AGED 50 YEARS,
THEKKUMPURATHU HOUSE, KALAMPOOR P.O.,
PIRAVOM VILLAGE, MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT. (OWNER OF LORRY
BEARING REGISTRATION NO.KL-36-B-9473) .
2. JESIN, W/O. PAULOSE, AGED 38 YEARS,
POOKOLIL HOUSE, ELANIPARA P.O.,
ELANIPARA VILLAGE, CHALAKKUDY TALUK,
THRISSUR DISTRICT, (OWNER OF A LORRY
BEARING REGISTRATION NO.KL-64-7074) .
3. SREEDHARAN, S/O. NARAYANAN,
AGED 55 YEARS, CHAKKIRIKATTIL HOUSE,
MUVAKULAM P.O., MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT. (OWNER OF A LORRY
BEARING REGISTRATION NO.KL-17-J-535).
4. JIJO ABRAHAM, S/O.ABRAHAM,
AGED 40 YEARS, THODUVAYIL HOUSE,
KALAMPOOR P.O., MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT, (OWNER OF A LORRY
BEARING REGISTRATION NO.KL-17-G-4696).
5. BOBY CHACKO, S/O.CHACKO,
AGED 40 YEARS, AKASALAYIL, KARIKODE P.O.,
MULAKULAM VILLAGE, VAIKOM TALUK,
KOTTAYAM DISTRICT, (OWNER OF A JCB EXCAVATOR (JS 140).

BY ADV. SRI.P.M.ZIRAJ.

RESPONDENT(S):

SUB INSPECTOR OF POLICE,
PIRAVOM POLICE STATION,
ERNAKULAM DISTRICT, PIN:682 864.

BY GOVT. 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:

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

**EXHIBIT P1: TRUE COPY OF THE REPORT SUBMITTED BY THE RESPONDENT
BEFORE THE DISTRICT COLLECTOR, ERNAKULAM DATED 11.02.2015.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 4704 of 2015

Dated this the 12th day of March, 2015

J U D G M E N T

The petitioners have aggrieved of the seizure of the vehicles bearing Nos.KL-36-B-9473, KL-64-7074, KL-17-J-535, KL-17-G-4696 & JCB (JS 140) by the respondent on 11.02.2015 alleging that the petitioners have committed offence under MMDR Act, 1957/KMMC Rules.

2. When the matter came up for consideration before this Court on 13.02.2015, the interim custody of the vehicles was ordered to be released, subject to satisfaction of a sum of Rs.25,000/- each.

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

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 petitioners to have the offence compounded, conceding the guilt, this Court finds it fit and proper to permit the petitioners to

compound the offence on satisfying the compounding fee of Rs.25,000/- and file applications in this regard. 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 petitioners is compounded, no prosecution proceedings shall be pursued against them.

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

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.