

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

WP(C).No. 5224 of 2015 (C)

PETITIONER :

**JAMES, S/O.ALEYAS,AGED 45 YEARS,
PANAYIL HOUSE, PATTIMATTOM DESOM,
PATTIMATOOM VILLAGE, KUNNATHUNADU TALUK,
ERNAKULAM DISTRICT,
(OWNER OF LORRY BEARING REGISTRATION NO.KL-40-H-5046)**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT :

**THE SUB INSPECTOR OF POLICE,
PALARIVATTOM POLICE STATION, ERNAKULAM DISTRICT,
PIN -682 020.**

BY SR GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).NO.5224/2015

APPENDIX

PETITIONER'S EXHIBITS: NIL

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 5224 of 2015

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Dated, this the 24th day of February, 2015

JUDGMENT

The petitioner, who is the owner of the vehicle bearing No. **KL 40 H 5046**, is aggrieved of the seizure of the vehicle by the respondent on 16.02.2015, alleging illegal transportation of ordinary earth. The learned counsel for the petitioner submits that the petitioner is ready to compound the offence.

2. 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 his 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 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 concerned respondent to accept the application to be filed by the petitioner to compound the offence;

which shall be considered and appropriate orders shall be passed so as to release the vehicle 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 this judgment along with copy of the writ petition before the concerned respondent for further steps.

The writ petition is disposed of.

Sd/-

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

kmd