

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WP(C).No. 5776 of 2015 (V)

PETITIONER :

**THYAGARAJAN.S., S/O.SUKUMARAN,
AMPAZHATHARA KOLLANTE VADAKKETHIL,
AREEKKARA, CHENGANNUR.**

**BY ADVS.SMT.ASHA ELIZABETH MATHEW
SRI.NIRMAL V NAIR**

RESPONDENT :

**SUB INSPECTOR OF POLICE,
POLICE STATION, CHENGANNUR,
ALAPPUZHA DISTRICT. PIN-688 001**

BY SR GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

APPENDIX

=====

**EXHIBIT P1 A TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF TIPPER
LORRY BEARING REGISTRATION NO.KL-32-B-6580.**

EXHBIIT P2 A TRUE COPY OF THE ORDER DATED 02/02/2015 ISSUED BY THE SENIOR GEOLOGIST, ALAPPUZHA.

EXHIBIT P3 A TRUE COPY OF MINERAL TRANSIT PASS NO.38

**EXHIBIT P4 A TRUE COPY OF THE BUILDING PERMIT ISSUED BY THE
SECRETARY, MULAKKUZHA GRAMA PANCHAYATH.**

EXHIBIT P5 A TRUE COPY OF THE MAHAZAR.

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.S.TO.JUDGE

sts

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No.5776 OF 2015
.....

Dated this the 3rd day of March, 2015

J U D G M E N T

The petitioner, who is the owner of Tipper Lorry bearing registration No.KL-32-B-6580, is aggrieved of the seizure of the vehicle by the respondent on 19.02.2015, alleging that the above vehicle was being used for extraction and loading of ordinary earth.

2. The learned Counsel for the petitioner submits that the petitioner is ready to compound the offence and that an opportunity might be given to get the vehicle released after satisfying the compounding fee.

3. 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, 2015 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 the relevant Rule 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 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 respondent to consider the application filed by the petitioner to compound the offence; and pass appropriate orders 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 writ petition is disposed of.

Sd/-
P.R.RAMACHANDRA MENON
JUDGE

//true copy//

P.S. to Judge

St/-