

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

WP(C).No. 7717 of 2015 (L)

PETITIONER :

**SHARAFUDHEEN
S/O.MUHAMMED, AGED 30 YEARS, POTTAKULATHIL HOUSE
PALATHOL P.O., ELAMKULAM VILLAGE, PERINTHALMANNA TALUK
MALAPPURAM DISTRICT
(OWNER OF LORRY BEARING REGISTRATION NO.KL-10-Z-8954).**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT :

**THE DEPUTY TAHASILDAR,
TALUK OFFICE, PATTAMBI, PALAKKAD DISTRICT
PIN - 680 669.**

BY GOVT. PLEADER SRI. JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONERS' EXHIBITS :

**EXT.P-1: TRUE COPY OF THE MAHAZAR DATED 7.3.2015 PREPARED BY THE
 RESPONDENT.**

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

//TRUE COPY//

P.A. TO JUDGE

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P.R. RAMACHANDRA MENON J.

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Dated, this the 11th day of March, 2015

JUDGMENT

The petitioner, who is the owner of lorry bearing registration No. **KL 10 Z 8954**, is aggrieved of the seizure of the vehicle on 07.03.2015, alleging that the vehicle was being used illegally for transporting 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 is entitled to have the offence compounded in view of the desire expressed from his side in this regard.

3. Heard the learned Government Pleader as well.

4. 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 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.

5. 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.

6. 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

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compounded, no prosecution proceedings shall lie against the petitioner.

Petitioner shall produce a copy of this judgment along with copy of the writ petition before the respondent for further steps.

The writ petition is disposed of.

Sd/-

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

kmd