

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

WP(C).No. 8588 of 2015 (W)

PETITIONERS :

- 1. SIJO, S/O. THOMMAN, AGED 30 YEARS,
RESIDING AT PALOLIKKAL HOUSE,
KOTTALA DESOM, MULAYAM VILLAGE,
THRISSUR TALUK, THRISSUR DISTRICT
(OWNER OF LORRY BEARING REGISTRATION NO. KL-08-AY-2107)**
- 2. SHIJU, S/O. JACOB, AGED 33 YEARS,
KALAYIAL HOUSE, CHUYANNAMANNU DESOM,
PEECHI VILLAGE, THRISSUR TALUK, THRISSUR DISTRICT
(OWNER OF LORRIES BEARING REGISTRATION NUMBERS
KL-08-BA-1919 AND KL -45-F-639)**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT :

**THE SUB INSPECTOR OF POLICE,
PERUMBAVOOR POLICE STATION
ERNAKULAM DISTRICT PIN - 683542.**

BY GOVERNMENT PLEADER SRI. K.C. VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE MAHAZAR DT 16/3/2015 PREPARED BY THE RESPONDENT IN CONNECTION WITH SEIZURE OF LORRY BEARING REGISTRATION NO. KL-08-AY-2107.
- P2: COPY OF THE MAHAZAR DT 16/3/2015 PREPARED BY THE RESPONDENT IN CONNECTION WITH SEIZURE OF LORRY BEARING REGISTRATION NO. KL-08-BA-1919.
- P3: COPY OF THE MAHAZAR DT 16/3/2015 PREPARED BY THE RESPONDENT IN CONNECTION WITH SEIZURE OF LORRY BEARING REGISTRATION NO. KL-45-F-639.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.8588 of 2015

Dated this the 18th day of March, 2015

JUDGMENT

The first petitioner, who is the owner of lorry bearing registration No.KL-08-AY-2107 and the second petitioner, who is the owner of two lorries bearing registration Nos.KL-08-BA-1919 and KL-45-F-639, are aggrieved of seizure of the vehicles by the respondent on 16.03.2015, alleging that the above vehicles were being used for unauthorised extraction and loading of 'clay'.

2. The learned Counsel for the petitioners submits that the petitioners are ready to compound the offence and that an opportunity might be given to get the vehicles released, after satisfying the compounding fee.

3. The issue involved in this case is, whether the petitioners, who have 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 the part of the petitioners in this regard.

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 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 petitioners to compound the offence; and pass appropriate orders forthwith, subject to satisfaction of a sum of **Rs.25000/- in respect of each vehicle** as the compounding fee. Once the offence is compounded, no prosecution proceedings shall lie against them.

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

The writ petition is disposed of.

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

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