

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 8735 of 2015 (N)

PETITIONERS :

- 1. SHAJI S., AGED 45 YEARS,
S/O. SUKUMARAN, KUNNATHUVELI, PALLIPPURAM VILLAGE
K.R.PURAM P.O., CHERTHALA TALUK, ALAPPUZHA DISTRICT.**
- 2. SUMESH, AGED 32 YEARS,
S/O. KARTHIKEYAN, KANICHERY VELIYIL,
PALLIPPURAM VILLAGE, K.R.PURAM P.O.,
CHERTHALA TALUK, ALAPPUZHA DISTRICT.**

BY ADV. SRI.P.V.DILEEP

RESPONDENTS :

- 1. THE SUB INSPECTOR OF POLICE
CHERTHALA POLICE STATION, ALAPPUZHA DISTRICT.**
- 2. THE REVENUE DIVISIONAL OFFICER,
ALAPPUZHA, ALAPPUZHA DISTRICT.**

R1 & R2 BY SENIOR GOVERNMENT PLEADER SRI. JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

WP(C).No. 8735 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 : COPY OF THE RC BOOK OF THE MINI LORRY BEARING REG.NO.KL-32/3741.**
- P2 : COPY OF THE FIR AND MAHAZAR PREPARED BY THE 1ST RESPONDENT
DTD.16.3.2015 REGARDING THE SEIZURE OF VEHICLE NO.KL-32/3741.**
- P3 : COPY OF THE COMPOUNDING PETITION SUBMITTED BY THE PETITIONER
BEFORE THE 1ST RESPONDENT DTD.17.3.2015.**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 8735 of 2015

Dated this the 19th day of March, 2015

JUDGMENT

The first petitioner is the owner of the vehicle bearing Reg. No. **KL-32-3741**, which was seized by the 1st respondent alleging illegal transportation of 'Ordinary earth' in contravention of the relevant provisions of the 'MMDR Act, 1957'/'KMMC Rules. The second petitioner is the driver of the vehicle. The learned counsel for the petitioners submits that the petitioners would like to have the offence compounded and that the above mentioned vehicle might be caused to be released after accepting the compounding fee.

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, 2015 is entitled to have the offence compounded in view of the desire expressed from the part of the petitioner 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 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.

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 willingness expressed from the part of the petitioners to have the offence compounded, conceding the guilt, this Court finds it fit and proper to direct the 1st respondent to compound the offence, if the petitioners file an application and satisfy a sum of **Rs. 25,000/-** towards compounding fee. It is ordered accordingly. On satisfaction of the compounding fee, the vehicle shall be released to the petitioners forthwith. 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 1st respondent for further steps.

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

kp/-