

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

WP(C).No. 8776 of 2015 (V)

PETITIONER :

**BIJU
S/O.KUNHIRAMAN, AGED 38 YEARS,
PATTYAMMERADUKKAM HOUSE, EDAMUNDA P.O.
KASARGODE,
OWNER OF TIPPER BEARING NO. KL-60-C-2633.**

BY ADV. SRI.S.SHAJAHAN (ADOOR)

RESPONDENTS :

- 1. THE REVENUE DIVISIONAL OFFICER
KANHANGAD, KASARAGODE DISTRICT - 671 315.**
- 2. THE DEPUTY TAHASILDAR
KANHANGAD, KASARAGODE - 671 315.**
- 3. THE SUB INSPECTOR OF POLICE
KANHANGAD, KASARAGODE - 671 315.**

R1 TO R3 BY SR. GOVT. PLEADER SRI. K.C. VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 8776 of 2015 (V)

APPENDIX

PETITIONERS' EXHIBITS :

**EXT.P1: THE TRUE COPY OF THE COMPOUNDING APPLICATION MADE BY THE
 PETITIONER.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 8776 of 2015

Dated this the 23rd day of March, 2015

J U D G M E N T

The petitioner is the owner of the vehicle bearing No.KL-60-C-2633 which was seized by the 2nd respondent on 09.03.2015 alleging offence under the MMDR Act/KMMC Rules. According to the petitioner, no offence has been committed. However, the learned counsel for the petitioner submits that, the petitioner is ready to compound the offence by virtue of the enabling provisions under the statute.

2. The learned Government Pleader submits on instructions that, the vehicle was seized because of the unauthorised transportation of 'ordinary earth' without complying with the provisions of the MMDR Act/KMMC Rules. In the course of further steps, the vehicle was directed to be taken to the office of the Deputy Tahasildar, but instead of producing the vehicle as above, the petitioner caused the vehicle to be driven away.

3. 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.

4. 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.

5. In view of the willingness expressed from the part of the petitioner to have the offence compounded, conceding the guilt, this Court finds it fit and proper to direct the respondent to compound the offence, if the petitioner files an application and

satisfies 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 petitioner forthwith. It is made clear that once the offence alleged against the petitioner is compounded, no prosecution proceedings shall be pursued against him.

6. It is made clear that, if any other offence has been committed by the petitioner or the Driver of the vehicle with reference to the provisions of the Motor Vehicles Act/Rules or such other relevant provisions of law in connection with the instructions given by the 2nd respondent to take the vehicle to the office, it is always open for the concerned respondent to take appropriate action against the parties concerned in respect of such offence as well.

The writ petition is disposed of. The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the concerned respondent for further steps.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.