

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No. 11808 of 2013 (A)

PETITIONER :

**MOHAMED SHAFI,
S/O. MOIDEEN HAJI, KUTTIKATTIL HOUSE, (VIA)
THIRUNAVAYA, ATHAVANAD P.O.,
MALAPPURAM DISRICT, PIN:676 310
(REGISTERED OWNER OF VEHICLE BEARING
REG. NO.KL-60/1105-EXCAVATOR).**

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENT :

**THE SUB INSPECTOR OF POLICE,
VALANCHERRY POLICE STATION, MALAPPURAM DISTRICT,
PIN:676 552.**

BY GOVERNMENT PLEADER SRI.M.MUHAMMED SHAFI

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 25-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

WP(C).No. 11808 of 2013 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE EXCAVATOR BEARING REG.NO.KL-60/1105.**
- EXHIBIT P2: TRUE COPY OF THE MAHAZAR PREPARED BY THE RESPONDENT DATED 30.4.2013.**
- EXHIBIT P3: TRUE COPY OF ORDER DATED 3.4.2009 IN WPC NO.11206/2009 OF THIS HON'BLE COURT.**
- EXHIBIT P4: TRUE COPY OF ORDER DATED 22.12.2010 IN WPC NO.38246/2010 OF THIS HON'BLE COURT.**
- EXHIBIT P5: TRUE COPY OF ORDER DATED 11.3.2011 IN WPC NO.7689/2011 OF THIS HON'BLE COURT.**

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

/TRUE COPY/

P.A.TO JUDGE

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P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 11808 of 2013

Dated this the 25th day of February, 2015

JUDGMENT

The petitioner is the owner of the vehicle bearing Nos. **KL-60/1105**, which was seized by the **respondent** on 30.4.2013 alleging violation of the provisions of MMDR Act/KMMC Rules. This made the petitioner to approach this Court challenging the proceedings, mainly contending that the respondent does not have any power jurisdiction or competence to have seized the vehicles in any manner.

2. Heard the learned Government Pleader as well.

3. The authority of the respondent to effect seizure has already been considered by this Court and the power and competence has been upheld as per the decision reported in **Aloshias C. Antony Vs. Government of Kerala** [2014(1) KLT 536]. The said decision was rendered, also taking note of the nature of offence which is a 'cognizable' one (notwithstanding anything contained in the Cr.P.C) as stipulated in Section 21(6) of MMDR Act, 1957 and also placing reliance on the judgment

rendered by a Division Bench of this Court in **Construction Materials Movers Association V. State of Kerala** [2008 (4) KLT 909]. In the said circumstance, there is no tenable ground to call for interference.

4. When the matter came up for consideration on **03.05.2013**, the vehicle was caused to be released, **on execution of a simple bond**. In the said circumstance, the further course of action required is to surrender the vehicle before the concerned respondent, so as to enable the said respondent to produce it before the concerned Magistrate having jurisdiction over the area and to proceed with steps for prosecution, unless the offence is sought to be compounded.

5. The petitioner express desire to compound the offence by virtue of the enabling provisions under the relevant provisions of law. This Court finds it fit and proper to permit the petitioner to have it compounded on satisfying the compounding fee of ₹ 25,000/-. Once the offence is compounded, no prosecution proceedings will lie in view of the law declared by this Court in **Digil Vs. Sub Inspector of Police** [2013(1) KLT 600]. It shall

be reported to the concerned Magistrate, if the crime has already been reported. If there is any failure in compounding the offence, the concerned respondent shall pursue further steps in connection with the prosecution before the concerned Magistrate having jurisdiction over the area.

The writ petition is disposed of.

sd/-
P.R. RAMACHANDRA MENON,
JUDGE.

kp/-