

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

WP(C).No. 9310 of 2015 (K)

PETITIONER(S):

1. **ANZIL MARY, AGED 35 YEARS,
W/O.MELGIN, MANJALI HOUSE, AMBALLOOR P.O,
AMBALLOOR VILLAGE, MUKUNDAPURAM TALUK,
THRISSUR DISTRICT.
(OWNER OF LORRY BEARING NO.KL-45-L-4818).**
2. **LISSY THOMAS, W/O.THOMAS,
MEKKATTUKULAM, KUNDANNOOR P.O.,
THALAPALLY TALUK, THRISSUR DISTRICT.
(OWNER OF LORRY BEARING REGISTRATION NO.KL-48-G-4377).**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

**THE SUB INSPECTOR OF POLICE,
KOTHAMANGALAM POLICE STATION,
ERNAKULAM DISTRICT, PIN-682521.**

BY SENIOR GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

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APPENDIX

PETITIONERS' EXHIBITS

**P1: COPY OF THE FIRST INFORMATION REPORT DATED 17/3/15 NO.0481
PREPARED BY THE RESPONDENT.**

RESPONDENTS'M EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R. RAMACHANDRA MENON J.

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Dated, this the 24th day of March, 2015

JUDGMENT

The petitioners, who are the owners of vehicles bearing Nos. **KL 45 L 4818** and **KL 48 G 4377** respectively, are aggrieved of the seizure of the vehicles on 17.03.2015 by the respondent, alleging that the vehicle was being used illegally for transporting red earth. The learned counsel for the petitioners submits that the petitioners are 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 their 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 petitioners to compound the offence;

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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 the petitioners.

The petitioners 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