

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. 9340 of 2015 (N)

PETITIONER :

**SHAJI K. ABRAHAM, AGED 47 YEARS,
SON OF ABRAHAM, KANJIRAKKATTU HOUSE,
VADAVUKKODE.P.O.- 682 310**

**BY ADVS.SRI.GEO PAUL
SRI.SANU MATHEW
SRI.RADHIKA RAJASEKHARAN P.
SRI.C.R.PRAMOD
SRI.S.ASHOK KUMAR.
SRI.LENIN P. SUKUMARAN
SRI.K.S.SREENATH
SRI.JERRY VARGHESE**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF REVENUE, GOVERNMENT SECRETARIAT ANNEXE,
TRIVANDRUM, PIN-695 001**
- 2. THE DISTRICT COLLECTOR, CIVIL STATION,
KAKKANAD, ERNAKULAM, COCHIN-682 030**
- 3. THE VILLAGE OFFICER, VILLAGE OFFICE, NADAMA,
TRIPUNITHARA, ERNAKULAM DISTRICT,PIN-682 301**
- 4. SUB INSPECTOR OF POLICE, HILL PALACE POLICE STATION,
TRIPUNITHARA, ERNAKULAM DISTRICT,PIN-682 301**

R1 TO R4 BY SR 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:**

sts

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APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE RC BOOK OF LORRY BEARING REG.NO.KL 40 G/7205.**
- P2 COPY OF THE RC BOOK OF LORRY BEARING REG.NO.KL-40 F/388.**
- P3 COPY OF THE REPORT DATED 20/3/2015 OF THE 3RD RESPONDENT TO THE 4TH RESPONDENT OF LORRY BEARING NO.KL-40 G/7205.**
- P4 COPY OF THE SEIZURE MAHAZAR DATED 20/3/2015 PREPARED THE 3RD RESPONDENT OF LORRY BEARING NO.KL- 40 G/7205.**
- P5 COPY OF THE REPORT DATED 20/3/2015 OF THE 3RD RESPONDENT TO THE 4TH RESPONDENT OF LORRY BEARING NO.KL 40 F/383**
- P6 COPY OF THE SEIZURE MAHAZAR DATED 2/3/2015 PREPARED THE 3RD RESPONDENT OF LORRY BEARING NO.KL 40 F/383.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

P.R. RAMACHANDRA MENON J.

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Dated, this the 24th day of March, 2015

JUDGMENT

The petitioner, who is the owner of vehicles bearing Nos. **KL 40 G 7205** and **KL 40 F 383** respectively, are aggrieved of the seizure of the vehicles 20.03.2015 3rd respondent, alleging that the vehicle was being used illegally for transporting red earth. The learned counsel for the petitioner submits that the petitioner is ready to compound the offence.

2. 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 are 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, the petitioner is permitted to compound the offence, subject to satisfaction of a sum of **Rs.25000/-** in respect of each vehicle as

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the compounding fee before the third respondent. Once the compounding fee is paid, no prosecution proceedings shall lie against the petitioner.

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

Sd/-

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

kmd