

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937

WP(C).No. 9750 of 2015 (P)

PETITIONER(S):

**SHEELA. S.,
BHAVANA, THATTHAMPALLY.P.O.,
ALAPPUZHA, PIN -688 013.**

**BY ADVS.SRI.P.VIJAYAKUMAR
SRI.C.R.REGHUNATHAN
SRI.M.V.ASHIM
SRI.R.BALAKRISHNAN
SRI.B.HARRYLAL**

RESPONDENT(S):

- 1. DISTRICT COLLECTOR,
KOTTAYAM -686 002.**
- 2. REGIONAL TRANSPORT AUTHORITY,
KOTTAYAM -686 002.**
- 3. CIRCLE INSPECTOR OF POLICE,
KADUTHURUTHI,
KOTTAYAM DISTRICT -686 604.**

R1 TO R3 BY (SR) GOVERNMENT PLEADER SRI.K.C.VINCENT.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 26-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

vmr.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT.P1- TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE VEHICLE
KL-04/AC/3060.
- EXHIBIT P2- TRUE COPY OF THE GOODS CARRIAGE PERMIT OF THE VEHICLE
KL/04/AC/3060.
- EXHIBIT P3- TRUE COPY OF THE SEIZURE MAHASSAR DATED 06/03/2015.
- EXHIBIT P4- TRUE COPY OF REPORT SUBMITTED BY S.I. OF POLICE TO THE
DISTRICT COLLECTOR.
- EXHIBIT P5- TRUE COPY OF REPRESENTATION DATED 09/03/2015 SUBMITTED BY
THE PETITIONER BEFORE THE FIRST RESPONDENT.
- EXHIBIT P6- TRUE COPY OF THE JUDGMENT DATED 18/03/2015 IN WP(C)
NO.8175/2015.

RESPONDENTS EXHIBITS : NIL

/TRUE COPY/

P.A.TO JUDGE

vmr

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 9750 of 2015

Dated this the 26th day of March, 2015

JUDGMENT

Petitioner is the owner of the vehicle bearing Reg. No. KL-04/AC/3060, which was seized by the third respondent alleging illegal transportation of small quantity of granite metal in contravention of the relevant provisions of the 'MMDR Act, 1957'/'KMMC Rules. The learned counsel for the petitioner submits that the petitioner would like to have the offence compounded and that the above mentioned vehicle might 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 his desire expressed in that 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 to be 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 deposit of a sum of Rs.25,000/-, apart from directing the respondent concerned to consider the application for compounding, in statutory terms.

5. A question arose before this Court 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 **Digil v. Sub Inspector of Police**

[2013 (1) KLT 600], holding that once the offence is compounded, there cannot be any further prosecution proceedings.

6. In view of the petitioner's willingness to have the offence compounded conceding the guilt, this Court finds it fit and proper to direct the first respondent to compound the offence, if the petitioner deposits a sum of Rs. 25,000/-. 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.

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

DAMA SESHADRI NAIDU
JUDGE

DMR/-