IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

WP(C).No. 10976 of 2015 (V)

PETITIONER(S):

MANIKANDAN, S/O.KUNJU,
AGED 37 YEARS, THANIKKALPARAMBIL HOUSE,
THIRUNAVAYA, KODAKKAL P.O., MALAPPURAM,
OWNER OF TIPPER BEARING NO.KL-28-4886.

BY ADV. SRI.S.SHAJAHAN (ADOOR).

RESPONDENT(S):

THE SUB INSPECTOR OF POLICE,
TIRUR, MALAPPURAM-695 061.

BY SR. GOVT. PLEADER SRI.K.C. VINCENT.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 **COPY OF THE SEIZURE MAHAZAR DATED 31/03/2015 PREPARED BY THE RESPONDENT.**

EXT.P2 **COPY OF THE COMPOUNDING APPLICATION MADE BY THE PETITIONER.**

RESPONDENT'S EXHIBITS:- **NIL.**

//TRUE COPY//

P.A. TO JUDGE

rs.

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.10976 of 2015

Dated this the 1st day of April, 2015

JUDGMENT

The petitioner's vehicle bearing Registration No.KL-28-4886 has been been seized by the respondent on 31.03.2015, alleging that the above vehicle was being used for extraction and loading of 'ordinary earth'.

2. The learned Counsel for the petitioner submits that the petitioner is ready to compound the offence and that an opportunity might be given to get the vehicle released, after satisfying the compounding fee.

3. 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 the desire expressed from the part of the petitioner in this regard.

4. Heard the learned Government Pleader as well.

5. 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.

6. 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.

7. In view of the law declared as mentioned herein before, there will be a direction to the respondent consider the application filed by the petitioner to compound the offence; and pass appropriate orders forthwith, subject to satisfaction of a sum of **Rs.25000**/- as the compounding fee. Once the offence is compounded, no prosecution proceedings shall lie against the petitioner.

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

The writ petition is disposed of.

P.R. RAMACHANDRA MENON,
JUDGE

sp