

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

WP(C).No. 11479 of 2015 (H)

PETITIONER(S):

**JAYAKUMAR C., AGED 35,
S/O.CHANDRAN, KALYANI,
ALANTHRAGONAM, PEYAD P.O.,
MALAYINKEEZHU, NEYYATTINKARA,
THIRUVANANTHAPURAM.**

BY ADV. SRI.SHAJIN S.HAMEED

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR, THIRUVANANTHAPURAM,
OFFICE OF THE DISTRICT COLLECTOR, KUDAPPANAKKUNNU,
THIRUVANANTHAPURAM, PIN - 695 001.**
- 2. THE SUB INSPECTOR OF POLICE,
MALAYINKEEZHU POLICE STATION,
THIRUVANANTHAPURAM DISTRICT,
PIN - 695 571.**

BY GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
07-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 11479 of 2015 (H)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P1: PHOTOCOPY OF CERTIFICATE OF REGISTRATION THE VEHICLE BEARING
REGISTRATION NUMBER KL-19-A-780.**

**EXT.P2: PHOTOCOPY OF THE MAHAZAR PREPARED BY THE SUB INSPECTOR OF
POLICE, MALAYINKEEZHU POLICE STATION DATED 1.4.2015.**

**EXT.P3: PHOTOCOPY OF THE REPORT DTD.1.4.2015 NO.115/GL/15 F3 PREPARED BY
THE 2ND RESPONDENT AND FORWARDED TO THE 1ST RESPONDENT.**

**EXT.P4: PHOTOCOPY OF THE COMPOUNDING PETITION FILED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT DTD.2.4.2015.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv**/**

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.11479 of 2015

Dated this the 7th day of April, 2015

JUDGMENT

The petitioner, who is the owner of MGV-Tipper bearing registration No.KL-19-A-780, is aggrieved of the seizure of the vehicle by the second respondent on 01.04.2015, alleging that the above vehicle was being used for extraction and loading of 'red 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 second respondent to 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 second respondent, for further steps.

The writ petition is disposed of.

Sd/-
P.R. RAMACHANDRA MENON,
JUDGE

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