

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

WP(C).No. 11684 of 2015 (I)

PETITIONER(S) :

1. SIYABU C.B.,
S/O. CHENATH BAPPU, AGED 36 YEARS
CHENATH HOUSE, KARIMBA, MOONNEKKAR P.O.,
KARIMBA – I VILLAGE, MANNARKAD TALUK
PALAKKAD DISTRICT
(OWNER OF LORRY BEARING REGISTRATION NO. KL-50-C-4060).
2. ABDUL JALEEL
S/O. MOITHEENKUTTY, AGED 37 YEARS
CHOLAPADATH HOUSE, PALAPATTA-II VILLAGE
OTTAPALAM TALUK, PALAKKAD DISTRICT
(OWNER OF LORRY BEARING REGISTRATION NO. KL-51-B-176).

BY ADV. SRI.P.M.ZRAJ

RESPONDENT :

**THE SUB INSPECTOR OF POLICE,
KALLADIKKODE POLICE STATION
PALAKKAD DISTRICT – 678 702.**

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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...2/-

APPENDIX

PETITIONER'S EXHIBITS :

**EXT.P1 : COPY OF THE MAHAZAR DATED 5.4.2015 PREPARED BY THE
RESPONDENT IN CONNECTION WITH THE VEHICLE OF FIRST
PETITIONER.**

**EXT.P2 COPY OF THE MAHAZAR DATED 5.4.2015 PREPARED BY THE
RESPONDENT IN CONNECTION WITH THE VEHICLE OF SECOND
PETITIONER.**

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

P.R. RAMACHANDRA MENON J.

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Dated, this the 8th day of April, 2015

JUDGMENT

The petitioners, who are the owners of lorries bearing registration No. **KL 50 C 4060** and **KL 51 B 176**, are aggrieved of the seizure of the vehicles on 05.04.2015, alleging that the vehicles were being used illegally for transporting ordinary earth, vide Exts. P1 and P2 mahazars. 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 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, there will be a direction to the respondent to consider the

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: 3 :

application filed by the petitioners to compound the offence; 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 writ petition is disposed of.

Sd/-

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

kmd