

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. 11696 of 2015 (J)

PETITIONER(S) :

**ANSAR, AGED 26 YEARS,
S/O.ASHRAF, ARACKAL HOUSE, SOUTH VAZHAKKULAM P.O,
VAZHAKULAM VILLAGE, KUNNATHUNADU TALUK,
ERNAKULAM DISTRICT. (OWNER OF A LORRIES BEARING
REGISTRATION NOS.KL-6-D-1281, KL-8-U-100, KL-7-AX-6345,
KL-6-C-306, KL-7-AJ-9925 AND KL-17-E-7050)**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S) :

**THE SUB INSPECTOR OF POLICE,
THADIYITTAPARAMBU POLICE STATION,
ERNAKULAM DISTRICT- 682 035.**

BY SR.GOVERNMENT 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:**

Msd.

WP(C).No. 11696 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF THE SEIZURE MAHAZAR DATED 02.04.2015
PREPARED BY THE RESPONDENT.**

**EXHIBIT P2: TRUE COPY OF THE PERMIT ISSUED BY THE DEPARTMENT OF
MINING AND GEOLOGY TO THE MANAGING DIRECTOR,
BLESS HOMES DATED 30.03.2015.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 11696 of 2015

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Dated, this the 8th day of April, 2015

JUDGMENT

The petitioner, who is the owner of vehicles bearing registration No. **KL 6 D 1281, KL 8U 100, KL 7 AX 6345, KL 6C 306, KL 7 AJ 9925** and **KL 17 E 7050**, is aggrieved of the seizure of the vehicles on 02.04.2015, alleging that the vehicles were being used illegally for transporting ordinary 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 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 is entitled to have the offence compounded in view of the desire expressed from his 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

W.P.(C) No. 11696 of 2015

: 3 :

application filed by the petitioner 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 petitioner.

The writ petition is disposed of.

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

kmd