

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 17TH DAY OF APRIL 2015/27TH CHAITHRA, 1937

WP(C).No. 12586 of 2015 (W)

PETITIONER:

PRADEEP K.D., S/O.DIVAKARAN,
KAPPIL HOUSE, VELLIKKAD,
P.O.MUNDUR, PALAKKAD - 678 592.
(OWNER OF VEHICLE KL-09-AA/9622).

BY ADV. SRI.SHOBY K.FRANCIS

RESPONDENT(S):

SUB INSPECTOR OF POLICE
KOTTAYI POLICE STATION, KOTTAYI P.O.
PALAKKAD DISTRICT - 678 572.

BY GOVERNMENT PLEADER SMT. K.A. SANGEETHA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17-04-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 : TRUE COPY OF THE SEIZURE MAHAZAR DATED 2.4.2015 ISSUED BY THE RESPONDENT
- EXT.P1(a) : TRUE ENGLISH TRANSLATION OF THE EXHIBIT P-1.
- EXT.P2 : TRUE COPY OF THE REQUEST DATED 6.4.2015 SUBMITTED BY THE PETITIONER TO THE RESPONDENT FOR COMPOUNDING THE CASE UNDER SEC.60(A)(I) OF THE KERALA MINOR MINERAL CONCESSION RULES, 1967.
- EXT.P3 : TRUE COPY OF THE JUDGEMENT IN WPC NO.104/2015 DATED 5.1.2015

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE.

DAMA SESHADRI NAIDU, J

WP(C) NO. 12586 OF 2015

Dated this the 17th day of April, 2015

JUDGMENT

The petitioner, who is the owner of the vehicle bearing No. KL-09-AA/9622, is aggrieved by the seizure of his vehicle on 02.04.2015 alleging illegal transportation of M-sand. The petitioner is questioning the authority of the respondent/Sub Inspector of Police, who seized the vehicle.

2. The learned Government Pleader points out that the authority of the respondent/Sub Inspector of Police to seize the vehicle, with reference to the relevant provisions of the MMDR Act/KMMC Rules, has already come up for consideration before this Court, and as per the judgment reported in **[2014 (1) KLT 536 Alosias C. Antony Vs. Government of Kerala]**, the issue has been answered against the persons like petitioner. The learned counsel for the petitioner, however, submits that the petitioner is ready to compound the offence and that an opportunity may be given to him 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

WP(C) No. 12586/2015

Regulation) Act, 1957 and the Kerala Minor Mineral Concession Rules, 1967, is entitled to have the offence compounded in view of the desire expressed by him in this regard.

4. Heard the learned Government Pleader as well.

5. Section 23A of the 'Act' and Rule 60A of the '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 ₹5,000/- (Rupees Five thousand only). But in respect of the transportation of sand/earth without any valid pass/sanction, it is said to be an offence under the 'Act' itself by virtue of the incorporation of Section 4(1A), for which separate penalty is provided under the same 'Act'. The maximum fine in respect of such offence prescribed under the 'Act' is ₹25,000/- (Rupees Twenty five thousand only). It is in the said circumstance that this Court has been passing various orders in similar matters enabling the parties concerned to have the interim custody of the vehicle on satisfaction of a sum of ₹25,000/- (Rupees Twenty five thousand only) and also by directing the respondent concerned to

WP(C) No. 12586/2015

consider the application for compounding, if any.

6. 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 [**2013 (1) KLT 600 Digil Vs. 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 shall be a direction to the respondent concerned to accept the application to be filed by the petitioner to compound the offence; it shall be considered and appropriate orders shall be passed forthwith, subject to satisfaction of a sum of ₹25,000/- (Rupees Twenty five thousand only) as the compounding fee. Once the offence is compounded, no further prosecution shall lie against the petitioner.

The Writ Petition is disposed of.

DAMA SESHADRI NAIDU
JUDGE