

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).No. 34894 of 2009 (F)

PETITIONER(S):

1. **M.I.SHAJAHAN,**
97, ANNAGEE ROAD, METTUPALAYAM,
COIMBATORE-641 043.
2. **V.RAMADAS,**
VEMBRAMKODE HOUSE, KUTTALA, KUNISSERY,
CHITTUR, PALAKKAD DISTRICT.

BY SRI.M.K.DAMODARAN,SENIOR ADVOCATE
ADVS. SRI.P.K.VIJAYAMOHANAN
SRI.ALAN PAPALI
SRI.GILBERT GEORGE CORREYA
SRI.NISHIL.P.S.

RESPONDENT(S):

1. **THE STATE OF KERALA,**
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT OF KERALA, SECRETARIAT,
THIRUVANANTHAPURAM.
2. **THE DISTRICT COLLECTOR, PALAKKAD.**
3. **THE ADDITIONAL TAHSILDAR,**
CHITTUR, PALAKKAD DISTRICT.

R1 TO R3 BY SR GOVERNMENT PLEADER SRI.K.C.VINCENT

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 09-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

sts

WP(C).NO.34894/2009

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE CERTIFICATE OF NATIONAL PERMIT OF VEHICLE
NO.TN-40 A-3313 IN THE NAME OF THE 1ST PETITIONER.**
- P2 COPY OF THE SEIZURE MAHAZAR PREPARED BY THE 3RD RESPONDENT ON
30/10/2009 SEIZING THE VEHICLE.**
- P3 COPY OF THE ORDER NO.LRG.3-2009/55584/9(2) DATED 23/11/2009 OF THE
2ND RESPONDENT FIXING COMPOUNDING FEE OF RS.75,000/-**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

P.R.RAMACHANDRA MENON, J.

W.P.(C).No.34894 of 2009

Dated this the 9th day of March, 2015

JUDGMENT

The vehicle bearing No.TN--40-A-3313 was seized by the third respondent on 30.10.2009 which ultimately came to be considered by the second respondent who passed Ext.P3 order dated 23.11.2009, permitting the petitioners to compound the offence concerned with reference to the violation of KMMC Rules and the petitioners have compounded the offence subject to satisfaction of the compounding fee of ₹75,000/-, which in turn is under challenge in this writ petition. The case of the petitioners is that the sand was brought in the vehicle belonging to the petitioners from Tamilnadu and as such the petitioners have not committed any offence under the relevant provisions of the Sand Act or the MMDR Act or KMMC Rules.

2. The learned Government Pleader points out that no document was ever produced by the petitioners in support of the transaction as discernible from Ext.P2 mahazer. No document is

W.P.(C).No.34894 of 2009

produced by the petitioners before this Court as well, so as to sustain the stand that the material was brought from Tamilnadu and further that it was on the strength of valid pass. That apart, the second respondent has made an observation in Ext.P3 to the effect that the material was being transported without any authority under the relevant provisions of law and no document was ever produced by the petitioners. It was in the said circumstances, that the petitioners sought for compounding the offence as referred to in Ext.P3 itself which request was considered and the petitioners were permitted to compound the offence subject to satisfaction of the sum of ₹.75,000/-. This Court does not find anything arbitrary or illegal in having passed Ext.P3 order. Interference is declined and the writ petition is dismissed.

Sd/-
P.R.RAMACHANDRA MENON,
JUDGE.

rkc.