

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 19361

WP(C).No.35515 of 2014 (L)

PETITIONER:

**ABDUL SATHAR,S/O.PAREETH,AGED 31 YEARS,
NJARAKKATTIL,EDATHALA P.O,KUZHIVELIPPADY,
CHOONDI VILLAGE,ALUVA TALUK,ERNAKULAM DSTRIC,
(OWNER OF LORRY BEARING REGISTRATION NO.KL-40-D-143).**

**BY ADVS.SRI.P.M.ZIRAJ
SRI.A.M.ABDULLA
SRI.O.M.SAJAYAN
SRI.K.S.DHANESH KUMAR
SRI.K.S.SREENATH
SRI. RESHMA P. JOSEPH
SRI. SUBI.K.
SRI.P.MOHAMED SABAH**

RESPONDENT:

**THE SUB INSPECTOR OF POLICE,
PALARIVATTOM POLICE STATION,
ERNAKULAM DISTRICT,PIN-683 101.**

BY SENIOR GOVT. PLEADER SRI.JOSEPH GEORGE.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

WP(C).No.35515 of 2014 (L)

APPENDIX

PETITIONER'S EXHIBITS

**EXT.P1-TRUE COPY OF THE WRITTEN REQUEST SUBMITTED BY THE
PETITIONER DATED 27-12-2014 BEFORE THE RESPONDENT.**

**EXT.P2-TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT
DATED 13-10-2014 IN WPC NO.26574 OF 2014.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No.35515 OF 2014
.....

Dated this the 6th January, 2015

J U D G M E N T

The petitioner is the owner of the vehicle bearing No.KL.40D-143, whose vehicle has been seized by the respondent/Sub Inspector alleging violation of Rule 48K of the Kerala Minor Mineral Concession Rules, 1967 . The learned Counsel for the petitioner submits that the petitioner is ready to compound the offence.

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, 1967 is entitled to have the offence compounded in view of the desire expressed from his side in this regard.

4. Heard the learned Government Pleader as well, who submits that the petitioner is not the registered owner of the vehicle and that the vehicle actually belongs to one Sadik Ali. The learned Counsel for the petitioner submits that the petitioner has already purchased the above vehicle from the aforesaid person by name Sadik Ali and that the petitioner is ready to produce the affidavit by the petitioner as well as the registered

owner before the concerned authority. It is also pointed out that the petitioner will be satisfied if the offence is permitted to be compounded and the vehicle is released to the registered owner.

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 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' itself by virtue of the incorporation of Section 4(1A), for which separate penalty is provided under the 'Act' itself. The maximum fine in respect of such offence prescribed under the 'Act' is stated as **Rs.25,000/-**. It was in the said circumstance, that this Court has been passing various orders in connected similar matters enabling the concerned petitioners to have the interim custody of the vehicle released 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 concerned respondent to accept the application filed by the petitioner to compound the offence; which shall be considered and appropriate orders shall be passed 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 the judgment along with a copy of the writ petition before the concerned respondent for further steps.

The writ petition is disposed of.

P.R.RAMACHANDRA MENON
JUDGE