
(2014) 07 KL CK 0033
In the High Court Of Kerala
Case No : CrI.M.C. No. 3638 of 2014

Ninan Varghese

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 03-07-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Mines and Minerals (Development and Regulation) Act, 1957 — Section 21, 23A, 4

Citation : (2014) 07 KL CK 0033

Hon'ble Judges : K. Ramakrishnan, J

Bench : Single Bench

Advocate : Nirmal V. Nair, Advocate for the Appellant; S. Hyma, Public Prosecutor, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

K. Ramakrishnan, J.—This Criminal Miscellaneous Case is filed by the petitioner seeking a direction to the second respondent u/s 482 of the Code of Criminal Procedure.

2. It is alleged in the petition that petitioner is the driver of JCB MMV Excavator bearing registration No: KL-13-H-5323, which was seized by the second respondent alleging illegal excavation of gravel which is an offence punishable u/s 4 read with Section 21 of the Mines & Minerals (Development & Regulation) Act. The said offence is a compounding offence as per Section 23A of the above said Act and as per Rule 60A of the Kerala Minor Mineral Concession Rules. The second respondent is bound to accept the compounding petition, if any, filed by the accused and promote compounding. Though the petitioner was prepared to compound the offence and he approached the second respondent for that purpose, the second respondent is not accepting the application to compound the offence. In similar matters, this court has issued directions to the prosecuting officers to receive compounding application, if any, filed and pass appropriate orders in accordance with law in a time bound manner. So, the petitioner has no

other remedy except to approach this court seeking the following relief:

To direct the 2nd Respondent to accept compounding petition and to compound the offence in Annexure A2 and to release the JCB MMV Excavator bearing registration No: KL-13-H-5323.

3. Considering the nature of reliefs claimed in the petition, this court felt that the petition can be disposed of at the admission stage itself after hearing the Counsel for the petitioner and the learned Public Prosecutor.

4. The Counsel for the petitioner submitted that it is not necessary that a crime has to be registered for the purpose of filing the application for compounding and if the prosecuting officer is satisfied that an offence has been committed and the vehicle has been seized, he is bound to allow compounding in view of Section 23A of the above said Act. But, he is not prepared to receive the application for compounding though the petitioner is prepared for the same.

5. The petition was opposed by the Public Prosecutor.

6. It is an admitted fact that the petitioner is the driver of JCB MMV Excavator bearing registration No: KL-13-H-5323, which was used for illegal excavation of gravel which is an offence punishable u/s 4 read with Section 21 of the Mines & Minerals (Development & Regulation) Act. Section 23A of the Act says that the offence is compoundable one and the prosecuting officer has to permit compounding, if the parties are prepared to compound the offence. Rule 60A of the Kerala Minor Mineral Concession Rule also promotes compounding. The allegation of the petitioner that the second respondent is not prepared to receive the compounding petition filed by him. It is seen from Annexure A3 order produced by the petitioner that in similar matters, this court has directed the prosecuting officer to receive and dispose of the application for compounding within a time frame. So, considering the circumstances, this court feels that the same yardstick can be applied in this case also and the petition can be disposed of. So, the petition is disposed of as follows:

If the petitioner applies for compounding before the second respondent, then, the second respondent is directed to receive the same and pass appropriate orders in that application in accordance with law within two weeks from the date of filing of such application.

With the above direction and observation, the petition is disposed of.

The petitioner is directed to produce this order along with the application to be filed requesting for compounding before the second respondent.