

(2015) 03 KL CK 0268

In the High Court Of Kerala

Case No : Writ Petition (C). No. 20651 of 2013 (F)

Somarajan

APPELLANT

Vs

The Deputy Tahsildar

RESPONDENT

Date of Decision : 02-03-2015

Acts Referred:

Mines and Minerals (Development and Regulation) Act, 1957 — Section 21(6)

Citation : (2015) 03 KL CK 0268

Hon'ble Judges : P.R. Ramachandra Menon, J

Bench : Single Bench

Advocate : P.M. Ziraj, for the Appellant; Anitha Ravindran, Govt. Pleader, Advocates for the Respondent

Final Decision : Disposed off

Judgement

P.R. Ramachandra Menon, J—The Lorry bearing Registration No. KL-52-B-1796 was seized by the respondent alleging offence under the Mines and Mineral (Development and Regulation) Act and the Kerala Minor Mineral Concession Rules. The main ground of challenge is that, the respondent is not having the jurisdiction or authority to effect seizure.

2. Heard both the sides.

3. The authority of the respondent to effect seizure has already been considered by this Court and the power and competence has been upheld as per the decision reported in Alosias C. Antony Vs. Chief Secretary, Government of Kerala and Others, (2014) 1 KHC 329 : (2014) 1 KLJ 573 . The said decision was rendered, also taking note of the nature of offence which is a "cognizable" one (notwithstanding anything contained in the Cr.P.C.) as stipulated in Section 21(6) of MMDR Act, 1957 and also placing reliance on the judgment rendered by a Division Bench of this Court in Construction Materials Movers Association V. State of Kerala [2008 (4) KLT 909]. In the said circumstance, there is no tenable ground to call for interference.

4. When the matter came up for consideration on 20.08.2013, the vehicle caused to be released, on satisfaction of a sum Rs. 25,000/- and on execution of a simple bond. In the said circumstance, the further course of action required is to surrender the vehicle before the respondent, so as to enable the respondent to produce it before the concerned Magistrate having jurisdiction over the area and to proceed with steps for prosecution, unless the offence is sought to be compounded.

5. The petitioner expresses desire to compound the offence by virtue of the enabling provisions under the relevant provisions of law. This Court finds it fit and proper to permit the petitioner to have the offence compounded on satisfying the compounding fee of Rs. 25,000/-. The amount ordered to be paid as per the interim order dated 20.08.2013 shall be treated as compounding fee and offence shall be treated as compounded. Once the offence is compounded, no prosecution proceedings will lie in view of the law declared by this Court in Digil Vs. Sub Inspector of Police, (2013) 1 KLT 600 . It shall be reported to the concerned Magistrate, if the crime has already been reported. If there is any failure in satisfying the compounding fee, the respondent shall pursue further steps in connection with the prosecution before the concerned Magistrate having jurisdiction over the area.

The writ petition is disposed of.