

Janeesh Vs. the Sub Inspector of Police

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Court : Kerala

Decided On : Feb-21-2014

Judge : Honourable Mr. Justice Anil K.Narendran

Appellant : Janeesh

Respondent : The Sub Inspector of Police

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN FRIDAY, THE 21ST DAY OF FEBRUARY 2014 2ND PHALGUNA, 1935 WP(C).No. 5283 of 2014 (I)

----- PETITIONER(S): -----

JANEESH, AGED 37 YEARS, S/O.DAMODHARAN, URUVAMKULATHU VELI HOUSE, PANAVALI PO, CHERTHALA TALUK, ALAPPUZHA DISTRICT (OWNER OF THE TIPPER LORRY BEARING REGISTRATION NO.KL - 46 6833). BY ADV. SRI.P.M.ZIRAJ RESPONDENT(S): ----- 1. THE SUB INSPECTOR OF POLICE, NILAMBUR POLICE STATION, MALAPPURAM DISTRICT-676 505.

2. THE REVENUE DIVISIONAL OFFICER (RDO), PERINTHALMANNA, MALAPPURAM DISTRICT - 676 505.

3. THE DISTRICT COLLECTOR, MALAPPURAM DISTRICT, CIVIL STATION, MALAPPURAM DISTRICT - 676 505.

4. THE DIRECTOR, MINING AND GEOLOGY, OFFICE OF THE MINING AND GEOLOGY, KESAVADASAPURAM, PATTOM, THIRUVANANTHAPURAM - 695 001. R1 TO R4 BY SR. GOVERNMENT PLEADER SMT. ANITHA RAVINDRAN THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/02-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Kss WPC.NO.5283/2014 (I) APPENDIX PETITIONER'S EXHIBITS: P1: COPY OF THE SEIZURE MAHAZAR DTD. 13/01/2014 PREPARED BY THE FIRST RESPONDENT. P2: COPY OF THE FIRST INFORMATION REPORT NUMBER 63 OF 2014 DTD. 13/01/2014 OF NILAMBUR POLICE STATION. P3: COPY OF THE REPRESENTATION DTD. 13/01/2014 SUBMITTED BY THE PETITIONER BEFORE THE SECOND RESPONDENT. P4: COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE SECOND RESPONDENT DTD. 13/01/2014. P5: COPY OF THE

JUDGMENT

OF THIS HONOURABLE COURT DTD. 11/10/2013 IN WPC.NO.25045 OF 2013 RESPONDENT'S EXHIBITS: NIL /TRUE COPY/ P.A.TO JUDGE Kss ANIL K. NARENDRAN, J.

----- W.P.(C) No. 5283 of 2014
----- Dated this the 21st day of February, 2014

JUDGMENT

The petitioner is the registered owner of a vehicle bearing registration No.KL-46-6833 which was seized by the first respondent alleging transportation of river sand. Exhibit P1 is the mahazar prepared on 13.01.2014 regarding the seizure of the said vehicle. A crime has also been registered against the petitioner by Nilambur Police and Exhibit P2 is the copy of the First Information Report.

2. According to the petitioner, the allegations levelled against him regarding the transportation of the river sand is baseless. After seizure of the vehicle, he has submitted Exhibit P3 request before the second respondent requesting to test the sample of sand taken from his vehicle with the help of the fourth respondent. He has also filed Exhibit P4 representation before the second respondent with a

request to complete the adjudication process without further delay. Now the relief sought in this writ petition is a writ of mandamus directing the second respondent to consider and dispose of Exhibit P3 and P4 representations.

3. Heard the learned counsel for the petitioner and the learned Government Pleader. W.P.(C) No. 5283 of 2014 2 4. It is pointed out that in similar situation this Court has issued Exhibit P5 judgment in the W.P.(C)No.25045 of 2013 and connected cases.

5. After hearing both sides, this Court finds that the proceedings initiated against the petitioner shall be finalized after obtaining analysis report of sand tested in a competent laboratory. In the said circumstances, the second respondent is directed to take sample of the sand to be tested, in the presence of the petitioner, and obtain analysis report from a competent laboratory within a period of 10 days from today. On receipt of the analysis report from the competent laboratory, the second respondent has to proceed with the final adjudication, if it is proved that the petitioner was transporting river sand in contravention of the provisions of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001. If the sand transported in the petitioner's vehicle is proved to be river sand necessarily the prosecution proceedings in accordance with law declared by a Division Bench of this Court in Sujith v. State of Kerala [2012 (2) KLT547 shall be initiated against the petitioner, which shall be done within six weeks thereafter. On the other hand, if the sand transported in the petitioner's vehicle is not W.P.(C) No. 5283 of 2014 3 river sand, no proceedings under the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001 shall be initiated against the petitioner, in which event, the petitioner shall be given an opportunity to compound the offence in terms of Section 23 A of the Mines and Minerals (Development and Regulation) Act, 1957. The petitioner shall produce a copy of this judgment before the second respondent for compliance along with a copy of this writ petition. The writ petition is disposed as above. ANIL K. NARENDRAN (JUDGE) DSV/21/02 W.P.(C) No. 5283 of 2014 4