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2025:KER:88205

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT

THE HONOURABLE MR.JUSTICE C. JAYACHANDRAN

MONDAY, THE 17TH DAY OF NOVEMBER 2025 / 26TH KARTHIKA, 1947

WP(C) NO. 37796 OF 2025

PETITIONER:

PRANAV MOHANAN,
AGED 30 YEARS
S/O. MOHANAN N.V, NEETTUKATTIL HOUSE,
PATTIMATTOM P.O, CHENGARA,
ERNAKULAM DISTRICT, PIN - 683562

BY ADV. SRI.SAJEEV KUMAR K.GOPAL

RESPONDENTS:

- 1 THE DISTRICT GEOLOGIST,
MINING AND GEOLOGY DEPARTMENT, DISTRICT OFFICE,
COLLECTORATE, KAKKANAD.P.O,
ERNAKULAM DISTRICT, PIN - 682030
- 2 THE STATION HOUSE OFFICER,
KURUPPUMPADY POLICE STATION, KURUPPUMPADY P.O.,
PERUMBAVOOR, ERNAKULAM DISTRICT, PIN - 683545

BY ADV.
SRI.AJITH VISWANATHAN, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
17.11.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



'C.R'

JUDGMENT

Petitioner's goods carriage vehicle was seized by the officers under the 1st respondent - Geologist, alleging transportation of minerals illegally. Ext.P2 is the acknowledgment regarding the seizure of vehicle. According to the learned counsel for the petitioner, what was seized is an empty vehicle from the premises of one 'Deepam Granite Industries', Kurrupampady. The petitioner would further canvass a case that he was about to return from the premises with empty vehicle, upon being informed that the said Granite Industries has no valid GST registration, at which time the vehicle was seized. The petitioner seeks heavy reliance upon a Division Bench decision of this Court in ***District Collector vs. Unais*** dated 29.03.2023 in W.A. No.609/2023 to contend that, even in cases where there is intention to transport minerals, the penal provisions will not attract. On such premise, the petitioner seeks issuance of a certiorari quashing Ext.P2 and seeking release of the petitioner's goods carriage vehicle.



2. Sri.Sajeev Kumar K. Gopal, learned counsel for the petitioner would submit that the judgment in *Unais* (supra) is eloquent with respect to the interpretation of section 21(4) of the Mines and Minerals (Development and Regulation) Act, 1957 (for short, 'M.M.D.R Act'). It was argued that a mere intention to transport, even if it is assumed, is not sufficient to attract the penalty under Section 21(4). The vehicle should have commenced movement to constitute transport, so as to attract the penalty under Section 21(4). Learned counsel would argue that the vehicle was empty at the time of seizure and it was not seized during the course of movement. According to the learned counsel, 'transport' as per Section 21(4) will not be attracted except with movement of the vehicle and there cannot be any transportation, unless the movement commences. On these two counts, the learned counsel would submit that the penalty under Section 21(4) is not attracted. Even going by the case of the respondents that the vehicle was kept at the premises of 'Deepam Granite Industries', with the intention of transportation, an offence is not made, as emphatically held in *Unais* (supra), is the final submission made by the learned counsel for the



petitioner. On such premise, the petitioner seeks the reliefs to be granted.

3. This argument was seriously opposed by Sri.Ajith Viswanathan, learned Government Pleader, pointing out that the vehicle was not empty at the time of its seizure. Learned Government Pleader would hand over a copy of the Mahazar, as per which the vehicle was seized, to argue that the vehicle was loaded at the time of its seizure by the Geologist herself and that the mineral was unloaded at the quarry itself, before taking the vehicle to the 2nd respondent - Station House Officer. Secondly, it was argued by the learned Government Pleader that any person who 'raises' or 'transports' or causes the same to be done without lawful authority will be answerable in terms of Section 21(4) of the Act. It was specifically pointed out that no enabling transit pass was produced by the driver of the petitioner, when the vehicle was seized, which would obviously indicate that the transportation was without any lawful authority. Learned Government Pleader would submit that the matter has been reported to the learned Magistrate by the



Geologist and the petitioner has to seek his remedy before the learned Magistrate. According to the learned Government Pleader, there exist no compelling circumstances warranting invocation of the powers of this Court under Article 226 of the Constitution of India.

4. Having heard the learned counsel appearing for the respective parties, this Court finds that the petitioner's cause cannot be recognised. It is true that in *Unais* (supra), a Division Bench of this Court found, on interpreting Section 21(4) of the Act, that the vehicles which transport or have transported alone are liable to be seized. A mere intention to transport is not sufficient for attracting the penalty proceedings. The Division Bench also held that the penalty proceedings will have to be strictly construed; and when the law is silent as to the procedure to be followed in respect of the vehicles, which were intended to be used for an illegal activity, the Court cannot read such provisions to justify an action which is not authorised by law.



5. This Court specifically notice that the Division Bench was dealing with cases where the tipper lorries or the vehicles seized were empty at the time of seizure; and not loaded with minerals. It is in the backdrop of the said fact that the Division Bench held that a mere intention to transport would not suffice. In the instant facts, going by the respondent-officials, the vehicle was loaded at the time of seizure and the same was unloaded before it was taken to the 2nd respondent/S.H.O. Although the learned counsel for the petitioner would dispute this fact, this Court, in exercise of its powers under Article 226 of the Constitution of India, cannot go into that disputed question of fact. For the purpose of this Writ Petition, this Court will have to proceed, as if the vehicle was loaded at the time of seizure, as contended by the respondent authorities. Contentions to the contrary, if any, of the petitioner will have to be proved before the appropriate authority, especially when the matter has already been reported to the Magistrate concerned.

6. In this regard, the scope and ambit of the expression



'transport' is required to be addressed. Section 21(4) is extracted here below:

“(4) Whenever any person raises, transports or causes to be raised or transported, without any lawful authority, any mineral from any land, and, for that purpose, uses any tool, equipment, vehicle or any other thing, such mineral, tool, equipment, vehicle or any other thing shall be liable to be seized by an officer or authority specially empowered in this behalf.”

(Underlined, for emphasis)

7. It is the scope of the expression 'transport' as employed in Section 21(4), which is required to be examined. Section 21 falls in Chapter VII, which contains miscellaneous provisions of the M.M.D.R Act; and Section 21 deals with the penalties. A perusal of Section 21(4) would imply that the said Section enables seizure of any tool, equipment, vehicle or other thing, as also, the mineral, which has been raised or transported without any lawful authority. It has to be reiterated that the focus is on seizure; and not on punishing the wrongdoer. Punishment to the wrongdoer is contemplated in Section 21(1), (3) and (5). Therefore, the term 'transport' as employed in



Section 21(4) has to be interpreted in the light of the very purpose for which Section 21(4) has been engrafted to the statute.

8. In Black's Law Dictionary, Tenth edition, the term 'transport' is defined thus:

“transport, To carry or convey (a thing) from one place to another”

9. In P. Ramanatha Aiyar's Advanced Law Lexicon, 4th Edition, the term 'transport' is seen dealt with in the context of various statutes and referring to Webster's dictionary, 'transport' is seen defined thus:

“Webster defines “transport” as to carry or convey from one place to another; again, to remove from one place to another; and throughout all the deviation of the word “transport”, we find the same part of the definition 'to remove'.”

10. In Chamber's 21st Century Dictionary (Revised Edition), the term 'transport' is dealt with thus:

“transport - to carry (goods, passengers etc) from one place to another.”



Profitable reference in this regard may also be made to the term 'transportation' as defined in Chamber's thus:

*“**transportation** - 1.the act of transporting or the process of being transported. 2.a means of being transported; transport.”*

11. In Oxford Advanced Learner's Dictionary, 7th Edition, the connotation of the word 'transport' is as follows:

*“**transport** - a system for carrying people or goods from one place to another using vehicles, roads, etc.”*

12. The hallmark of the expression 'transport', as decipherable from the above referred dictionaries, is the act of carrying a thing from one place to another. When it is understood in the context of Section 21(4), the term 'transport' connotes carrying mineral from one place to another. The moot point which arise for consideration is whether actual movement of the vehicle is a *sine qua non* to constitute 'transport'. The answer, which occurs to the mind of this Court is an emphatic 'No'. The process of transport or transportation commences with the loading of the



mineral into the vehicle, in order to carry it from one place to another. The movement of the vehicle, by itself, is of no moment, unless the vehicle is loaded with mineral. Therefore, the focus cannot be on movement alone, but should be to find out whether the process of transportation had commenced or not. The first step to transport a mineral from one place to another is to load the mineral into the vehicle, in which it is proposed to be transported. The above interpretation is in sync with the rule of purposive interpretation, as also, the mischief rule. One cannot lose sight of the very purpose sought to be achieved by Section 21(4), that is to say, to enable seizure of a vehicle or tool used in raising or transporting a mineral without any lawful authority. The mischief sought to be suppressed by Section 21(4) is to prevent the user of such vehicles or tools for raising or transporting a mineral, without any lawful authority. That being the legal position, the Court cannot adopt a hypotechnical approach, which ultimately enures the benefit of those who take law into their hands.



13. Coming to the facts, the existence of the subject vehicle in a crusher unit, not belonging to the owner of the vehicle is established. The fact that the vehicle was loaded with a mineral has to be prima facie taken to be true, going by the Mahazar prepared by none other than the Geologist herself. There is no material on record to indicate that the movement of the mineral was not enabled by any transit pass or movement permit. In the above fact situation, it cannot be concluded straight away that Section 21(4) is not attracted. This Court is of the definite opinion that the loading of the vehicle with the mineral for the purpose of transportation would make a sea change to the scenario, wherein the wrongdoer has gone an extra mile from that of a mere intention to transport the mineral, as dealt with in *Unais* (supra). As already held, the process of transportation had, in fact, begun, by loading the mineral into the vehicle. In such circumstances, this Court is of the opinion that the dictum laid down in *Unais* (supra) cannot be of any avail to the petitioner herein.

14. This Court also finds no reason to grant the relief sought



for in exercise of its powers under Article 226 of the Constitution of India. Without prejudice to the petitioner's right to seek statutory remedy before the learned Magistrate, where the matter has been reported, the instant Writ Petition will stand dismissed.

Sd/-

C. JAYACHANDRAN, JUDGE

SAS/ww



APPENDIX OF WP(C) 37796/2025

PETITIONER EXHIBITS

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| EXHIBIT P-1 | TRUE COPY OF THE REGISTRATION CERTIFICATE
IN RESPECT OF THE VEHICLE BEARING
REGISTRATION NO. KL 9 W 4317. |
| EXHIBIT P-2 | TRUE COPY OF THE NOTICE IN FORM-Q DATED
25-09-2025 ISSUED BY THE SENIOR GEOLOGIST. |
| EXHIBIT P-3 | TRUE COPY OF THE REPRESENTATION DATED NIL
SUBMITTED BY THE PETITIONER BEFORE THE 1ST
RESPONDENT. |