

GAHC010127462022



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Pet./608/2022

DR. JAYADITYA PURKAYASTHA
S/O- KAMALENDU PURKAYASTHA, R/O- 16, RAGHUNATH CHOUDHURY
PATH, LACHIT NAGAR, P.S. PALTANBAZAR, GUWAHATI-781007, DIST.-
KAMRUP(M), ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY SPECIAL PUBLIC PROSECUTOR, WILDLIFE AND
FOREST DEPARTMENT, ASSAM

2:THE DIVISIONAL FOREST OFFICER
KAMRUP EAST DIVISION
BASISTHA
GUWAHATI
PIN- 781029

Advocate for the Petitioner : MR. A. ALAM

Advocate for the Respondent : SC, FOREST

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

09.02.2024

Heard Mr. A. Alam, learned counsel for the petitioner. Also heard Mr. D. Gogoi, learned Standing counsel, Forest Department for the respondent.

2. This is an application filed under Section 482 of the Code of Criminal Procedure, 1973, *read with* Section 401 of Cr.P.C., praying for quashing the Offence Report No.G/18/2020 dated 10.10.2020 filed by the Forest Department, Kamrup East Division, Assam as well as the consequent Case under Section 39/40/44/49-B of Wild Life (Protection) Act, 1972 and the provisions of Amendment of Wild Life (Protection) (Assam Amendment) Act, 2009, punishable under Section 51 of the said Act.

3. It is submitted by the learned counsel for the petitioner, Mr. Alam that the accused/petitioner is a research fellow. He has done his Ph.D on checkered and keelback snakes i.e. *Xenochrophis* from the Guwahati University; he has been actively pursuing research on amphibians and reptiles from North East Region of India since 2006. The petitioner also worked in collaboration with the Global leaders in the field of herpetology under the guidance of Dr. Aaron Bauer of U.S., Dr. Annemarie Ohler and Dr. Patrick Davi of France, as well as Gernot Vogel of Germany. On 10.10.2020 at about 10 P.M, a team of Forest Staff and Officials of Wildlife Crime Control Bureau visited his place and seized all the Specimens of Research and also registered an offence vide Reference No.G/12(a)/OR/1668-70 corresponding to Offence No.G/18/20 dated 10.10.2020 under Sections 39/40/44/48(A)/49/49(B) of Wild Life (Protection) Act, 1972. Accordingly, the I.O. also submitted the Offence No.G/18/2020 dated 10.10.2020, wherein, it has

been mentioned that during the Search Operation, Sri Deepak Mahanta, Fr-I seized 44 containers of different sizes and shapes containing various animal trophies of Scheduled/Non-Scheduled Species were seized from the custody, control and possession of this petitioner, on the alleged grounds, that the petitioner failed to produce any legal document authorizing such custody, control, possession and transportation of the said animal trophies. Thereafter, the Offence Report was submitted under Sections 39, 40, 44 and 49B of the Wildlife (Protection) Act, 1972 which is punishable under Section 51 of the said Act.

4. He also submitted that, during the interrogation, the petitioner made the statement before the ACF, Sri Nripendra Nath Kalita and explained him the entire facts and circumstances that what he has been doing in connection with Research works and all the Animal Specimens were collected from the Department of Zoology of Mizoram University and that he has given General Permission, but, as he was unaware of formalities of specific mention of all Specimens in detailed in the permission, so the detailed list of Animal Specimens were not collected by him at the relevant time, and therefore, he was unable to produced before the I.O. at the time of the seizure. Moreover, the petitioner obtained supplementary permission from the PCCF (WL) & Chief Wildlife Warden E.F. & CC Department, Mizoram as well as from the Mizoram University on 02.12.2009 and 13.10.2013 respectively.

5. Further, the learned counsel for the petitioner also submits that the accused/petitioner has been working in collaboration with Dr. H. T. Lalremsanga, HOD, Zoology Department of Mizoram University and obtained the Specimens of Research provided to him for the purpose of Research works along with that the

said HOD also certified that the present petitioner has been affiliated to the organization of "Help Earth", Guwahati, Assam since 2015. So, he was allowed to examine their Specimens collected by them, in loan, with the condition that all the Specimens will be returned back to their custody after compiling all necessary data. Apart from that, the present petitioner also worked as a contractual employee under the Department of Forest, Assam. The respondent i.e. the Forest Department also admitted the fact that the petitioner was working under the said Department.

6. Being highly aggrieved and dissatisfied with the Offence Report No.G/18/2020 dated 10.10.2020 corresponding to Ref. No.G/12(a)/OR/1668-70 and Intimation No. G/12(a)/OR/1671-71 dated 12.10.2020 which was registered under Section 39/40/44/49-B of Wild Life (Protection) Act, 1972 and the provisions of Amendment of Wild Life (Protection) (Assam Amendment) Act, 2009, punishable under Section 51 of the said Act pending before the learned Sub-Divisional Judicial Magistrate (S) No.-2, Kamrup (M), Guwahati under the jurisdiction of Chief Judicial Magistrate, Kamrup (M), Guwahati, the learned counsel for the petitioner has prayed for quashing of the same by invoking the power under Section 482 of the Cr.P.C.

7. In this context, Mr. Gogoi, learned Standing counsel, Forest Department, has submitted that, there affidavit-in-opposition reveals that the petitioner has been working as a research fellow under the field of herpetology and also he admits that the accused/petitioner was working as a contractual employee under the Forest Department. Accordingly, he raised no objection, if the said Offence Report is set aside and quashed by exercising the power under Section 482 of Cr.P.C.

8. So, considering the above discussion as well as considering the entire facts and circumstance of the case, which revealed that the accused/petitioner was a research fellow and he was doing his research on Specimens specially on herpetology under the Mizoram University as well as he had extended his collaboration and worked as a contractual employee, under the Forest Department, Assam, as well the learned Standing counsel for the Forest Department has not raised any objection, hence, I am of the considered opinion that this is a fit case where the extra-ordinary power under Section 482 of Cr.P.C. can be invoked to quash the criminal proceeding.

9. Accordingly, the proceedings of the Offence Report No.G/18/2020 dated 10.10.2020 corresponding to Ref. No.G/12(a)/OR/1668-70 and Intimation No. G/12(a)/OR/1671-71 dated 12.10.2020 registered under Section 39/40/44/49-B of Wild Life (Protection) Act, 1972 and the provisions of Amendment of Wild Life (Protection) (Assam Amendment) Act, 2009, punishable under Section 51 of the said Act pending before the learned Sub-Divisional Judicial Magistrate (S) No.-2, Kamrup (M), Guwahati, stands set aside and quashed.

10. In terms of above, this Criminal Petition stands disposed of.

11. In the meantime, the petitioner is hereby directed to file a fresh petition before the learned Trial Court seeking zimma of the seized specimens for his further research work and on his appearance and on his filing a petition for grant of zimma, the learned Trial Court shall consider the same in accordance with law.

JUDGE

Comparing Assistant