

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 27TH DAY OF OCTOBER 2015/5TH KARTHIKA, 1937

Cri.MC.No. 5750 of 2014 ()

OR NO. 19/2014 OF CHITTAR FOREST STATION, PATHANAMTHITTA

PETITIONER(S)/PETITIONER/ACCUSED:

KANAKAPPAN, AGED 48 YEARS
S/O. THANKKCHAN
VETPOLIPPADI BHAGATHU PUTHEN VEETIL
CHITTAR-SEETHATHODE VILLAGE, KONNI TALUK
PATHANAMTHITTA

BY ADVS.SRI.V.SETHUNATH
SRI.V.R.MANORANJAN (MUVATTUPUZHA)

RESPONDENT(S)/RESPONDENTS/COMPLAINANT:

1. THE DIVISIONAL FOREST OFFICER,
RANNI, PATHANAMTHITTA DISTRICT, PIN-689662.
2. THE FOREST DEPUTY RANGER
CHITTAR FORESET STATION, PIN-689663.
3. THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, PIN-682031.

R3 BY PUBLIC PROSECUTOR SMT.SAREENA
R1,R 2 BY ADV. SRI.M.P.MADHAVANKUTTY, SPL. GP FOR FORESTS

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 27-10-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE 1- THE TRUE COPY OF THE FORM-1, SEIZURE REPORT AND MAHAZAR IN OR 19/2014 OF CHITTAR FOREST STATION.

ANNEXURE 2- TRUE COPY OF THE ALL THE PASSES ISSUED FROM THE FOREST OFFICES, BILLS, CERTIFICATE FROM THE VILLAGE OFFICE AND AGREEMENTS BY THE PRIVATE PERSONS.

ANNEXURE 3- TRUE COPY OF THE CIRCULAR ISSUED BY THE GOVT. NO. 14920/B1/2008 FOREST DATED 2-1-2010.

RESPONDENT(S)' EXHIBITS

ANN.R1(A) TRUE COPY OF THE GO(MS).23/93/FOREST DT 15.3.1993

ANN.R1(B) TRUE COPY OF THE GO(MS).36/93/FOREST DT 19.5.1993

ANN.R1(C) TRUE COPY OF THE GO(MS).40/2015/FOREST DT 27.5.2015

ANN.R1(D) TRUE COPY OF THE GO(MS).49/2015/FOREST DT 9.7.2015

// True Copy //

PA to Judge

B. KEMAL PASHA, J.

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Crl.M.C. No.5750 of 2014 A
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Dated this the 27th day of October, 2015

ORDER

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Petitioner, who is a building contractor, has collected timber through Annexure-2 Passes, which according to him, for the wood works to be carried out to 7 buildings, which were being constructed by him. The materials were stored in a shed, where the carpentry works were going on. The same were seized through Annexure-1 by the forest officials alleging offences punishable under Section 27(1)(d) and 27(1)(e)(iii) & (iv) of the Kerala Forest Act, 1961.

2. Heard learned counsel for the petitioner and learned Special Government Pleader for Forests.

3. According to the petitioner, he has procured the

timber legally through Annexure-2. The learned Special Government Pleader for Forests has pointed out that the veracity of Annexure-2 has to be verified by the investigating officer during investigation and presently, the investigation is going on. It seems that the seizure was on 20.09.2014.

4. Presently, there is no evidence to show that the trees were cut and removed from the forest or the petitioner had committed trespass into the forest. Apart from that, Annexure-2 *prima facie* reveals that he has lawfully procured the materials through legal means.

5. In the nature of this case, this Court is of the view that the investigating officer has to be directed to complete the investigation within one month from the date of receipt of a copy of this order and to file the final report in the matter. In case no offence is made out, the materials have to be released to the petitioner. In the meantime, the petitioner can approach the court below with a petition under Section 451 Cr.P.C. seeking the interim custody of the timber

involved. In such case, the court below shall pass appropriate orders in accordance with law.

With the said observations and directions, this Crl.M.C. is disposed of.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/27/10

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PA to Judge