

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 21ST DAY OF DECEMBER 2015/30TH AGRAHAYANA, 1937

Cri.MC.No. 7516 of 2015 ()

OR NO. 31/2015 OF DEVIKULAM FOREST RANGE OFFICE , SANTHANPARA DIVISION

PETITIONER(S)/A2:

PAUL VARGHESE ALIAS JUSTIN, AGED 45 YEARS
S/O.VARGHESE, MANNAMKANDAM, ADIMALY
IDUKKI DISTRICT.

BY ADV. SRI.BABU PAUL

RESPONDENT(S)/COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

2. THE DEVIKULAM FOREST RANGE OFFICER
SANTHANPARA, PIN-685 619.

R BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
21-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 7516 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEUXRE I- TRUE COPY OF THE PRELIMINARY REPORT FILED UNDER FORM 1
O/R/31/2015 DATED 18.9.2015.

ANNEXURE II- TRUE COPY OF THE MAHAZAR DT. 18.9.2015 FILED BEFORE THE JFCM
COURT, NEDUMKANDAM.

ANNEXURE III- THE TRUE COPY OF THE SALE DEED NO.1935/1/10 DATED 16.7.2010.

RESPONDENT(S)' EXHIBITS : NIL

// True Copy //

PA to Judge

B. KEMAL PASHA, J.

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Crl.M.C. No.7516 of 2015 C
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Dated this the 21st day of December, 2015

ORDER

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Petitioner is the accused in OR No.31/2015 of Devikulam Forest Range, Santhanpara Division for the offences under Section 27(1)(e)(iii) and Section 52(1) of the Kerala Forest Act, 1961 and Sections 5(2) and 9 of the Kerala Preservation of Trees Act, 1986. The property in question, from which trees were allegedly cut and removed, is a Cardamom Hill Reserve.

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

3. At the same time, the allegations do constitute the offences under Sections 5(2) and 9 of the Kerala

Preservation of Trees Act, 1986, in case it is proved. Matters being so, that part of the occurrence report wherein offences under Section 27(1)(e)(iii) and Section 52 of the Kerala Forest Act, 1961 are alleged, stands quashed.

4. In order to constitute an offence within the meaning of Section 27(1)(e)(iii) of the Kerala Forest Act, 1961, the property should be a Reserved forest or a land proposed to be constituted a Reserved forest. In this particular case, the property being a Cardamom Hill Reserve, it cannot be said that it is a Reserved forest. For bringing the property within the meaning of land proposed to be constituted a Reserved forest, certain procedures are prescribed. Those procedures have not been complied with in this case and, therefore, the land in question cannot be styled as a land proposed to be constituted a Reserved forest. Matters being so, the offences under Sections 27(1)(e)(iii) and 52 of the Kerala Forest Act, 1961 cannot be attracted in this case. The investigating officer can proceed

Crl.M.C.7516/2015

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with the investigation under all the offences under Sections 5(2) and 9 of the Kerala Preservation of Trees Act, 1986.

Crl.M.C. is disposed of accordingly.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/21/12

// True Copy //

PA to Judge