

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-24774 of 2013

.....

Date of decision:19.1.2015

Gajender Yadav

...Petitioner

v.

State of Haryana and another

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh.

.....

Present: Mr. S.K. Tamak, Advocate for the petitioner.

Mr. Surinder Singh Pannu, Deputy Advocate General,
Haryana for the respondent-State.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. for quashing the complaint case No.539 of 2010 instituted on 26.11.2010 titled as “DFO Versus Gajender Singh” under Section 67 of the Indian Forest Act, 1927 (hereinafter referred to as ‘the Act’) in the Court of Presiding Officer, Special Environment Court, Faridabad and for quashing the summoning order dated 5.4.2011 (Annexure-P.1) and non-bailable warrant order dated 20.7.2012 (Annexure-P.2) and all further consequential proceedings in the interest of justice.

Notice of motion has been issued in this case.

Mr. Surinder Singh Pannu, learned Deputy Advocate General,

Haryana has put in appearance on behalf of the respondent-State and

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contested this petition.

I have heard learned counsel for the petitioner and learned Deputy Advocate General, Haryana appearing for the respondent-State and have gone through the record including the trial Court record.

The complaint under Section 67 of the Act was instituted on the allegations that the accused after taking possession of 20' x 2' i.e. 40 sq. meters of the reserved forest area has made 'Pakka' construction in the right side in front of the school thus violating the provisions of the Act.

Learned counsel for the petitioner has argued that the petitioner has no concern with the school. The allegation in the complaint is regarding taking possession of the reserved forest area of 20' x 2' i.e. 40 sq. meters by making 'Pakka' construction.

As the complaint was filed by a public servant within the meaning of Section 73 of the Act, therefore, the lower Court dispensed with the preliminary evidence and summoned the accused. No illegality has been pointed out in the summoning order of the lower Court. A perusal of the record shows that earlier notices were sent through ordinary process but thereafter warrants of arrest have been issued. The fact whether the accused has taken illegal possession of the reserved forest by making 'Pakka' construction or not, is to be determined by the trial Court on the basis of evidence. At this stage, merely by stating that the petitioner has no concern with the school and not a member of the Governing Body etc. is no ground to quash the complaint and the summoning order.

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Therefore, finding no merit in this petition, the same is dismissed.

January 19, 2015.

(Inderjit Singh)
Judge

hsp