

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2016

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, THE CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE R.MAHADEVAN

W.A.No.1267 of 2016

P.Krishnaveni

... Appellant

v.

Forest Range Officer,
Head Quarters Range,
DMS Campus,
Teynampet,
Chennai - 600 006.

... Respondent

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 18.02.2016 made in W.P.No.27206 of 2015 passed by the learned Single Judge of this Court. Writ Petition filed under Article 226 of the Constitution of India praying to writ of certiorari to call for the records pertaining to STOR No.3/2003-2004 on the file of the respondent and quash the same.

For Appellant : Mrs.S.Sridevi

For Respondent : Mr.M.Santhanaraman, SGP (F)

JUDGMENT

R.MAHADEVAN, J.

Being aggrieved over the order passed by the learned Judge of this Court, the writ petitioner has filed this writ appeal before this Court.

2. The facts leading to the filing of this writ appeal, are as follows:

2.1 The appellant was arrayed as an accused in a case in STOR.No.3/2003-04 dated 26.03.2004 for the offences punishable under Section 21(3), 21 I(1), 35B and 36C of the Tamil Nadu Forest Act, 1882, Rule 9 of the Tamil Nadu Timber Transit Rules, 1968 and Rules 3 and 4 of the Tamil Nadu Maintenance of Accounts in respect of Scheduled Timber for Industrial or Commercial Purposes Rules, 1988 r/w Sections 54, 56, 56B, 56C and 56D of the Tamil Nadu Forest Act, 1882 and Sections 109 and 120B IPC, alleging that she refused to open the gate of the godown of M/s.Glowide Trade Wings for inspection by the Forest Range

Officer, during 2002 and she was in possession of 1.725 kg of red sanders.

2.2 Challenging the aforesaid proceedings, the appellant filed a complaint before the State Human Rights Commission in SHRC Case No.2812/2004/SS, which was dismissed on 19.07.2004.

2.3 Further, the charges framed against the owner of M/s.Glowide Trade Wings alone in STOR No.3/2003-04, were quashed by the order of this Court dated 30.04.2014 passed in W.P.No.44993 of 2006 and 35290 of 2007, which was also confirmed by the Division Bench of this Court vide its judgment dated 03.11.2014 passed in W.A.No.1400/2014 filed by the respondent herein. Pursuant to the same, the respondent had not proceeded with the case any more.

2.4 In the mean while, the appellant filed a writ petition in W.P.No.27206 of 2015 to quash the proceedings in STOR No.3/2003-04 dated 26.03.2004 initiated against her. After hearing both sides, the learned Judge dismissed the said writ petition by an order dated 18.02.2016. Hence, this writ appeal.

3. Learned counsel for the appellant has made the following submissions in this appeal:

(i)The appellant has nothing to do with the alleged offences and the case registered against her by the Forest Range Officer is nothing but a fabricated one, in order to wreck vengeance against her, as she did not open the gate of the godown for inspection.

(ii)Though the proceedings was initiated on 26.03.2004, the respondent had not proceeded with the same, even after the lapse of more than 12 years. It is well settled by the Apex Court as well as by this Court that the delay in prosecution is fatal to the case.

(iii)By order dated 30.04.2014 passed in WP.Nos.44993 and 35290 of 2007, the learned Judge of this Court has quashed the charges framed against the co-accused by name M.Moosa, who is the owner of the godown.

(iv)The appellant has already made a complaint dated 06.03.2004 against the Forest officials, which as per the direction of this Court in Crl.O.P.No.8734 of 2004, was registered with P6 Kodungaiyur Police Station in FIR No.173 of 2004 on 06.03.2004 for the offences under Sections 448, 323, 354 IPC. However, it is pending without any progress.

By stating so, learned counsel contended that without considering the same, the learned Judge has dismissed the writ petition. Therefore, she prayed for allowing this writ appeal and for quashing the proceedings initiated against the appellant

4. Resisting the contentions so made on the side of the appellant, learned Special Government Pleader (Forest) submitted that as the appellant was needed for collecting information in connection with STOR No.3/2003-04 and upon search, she was found in possession of 1.725 kg of red sanders and one marriage photo album, wherein, the presence of the co-accused Moosa was found in every important event. Therefore, she was implicated as one of the accused in the said case, as per law. Learned Special Government Pleader further submitted that as against the judgement of the Division Bench made in W.A.No.1400/2014 confirming the order passed in W.P.No.44993 of 2006, the respondent moved the Hon'ble Supreme Court by filing a Special Leave Petition in CC No.14209 of 2015. Pending the same, the appellant filed the writ petition in WP.No.27206 of 2015, which was rightly rejected as pre-mature by the learned Judge. Hence, he prayed dismissal of this appeal.

5. We have heard the rival submissions made on either side and perused the documents placed before us.

6. The facts remain undisputed are that the appellant is the wife of one Palani, who was working as a Watchman in M/s.Glowide Trade Wings during the relevant point of time. On 25.11.2002, the respondent had conducted an inspection of the godown of the said firm and registered a case in STOR No.3/2003-04 against the owner of the said firm viz., Moosa. The said case was quashed by the learned single Judge, which was also confirmed by the Division Bench of this Court. Challenging the same, the respondent has filed a SLP before the Hon'ble Supreme Court and the same is pending. During the interregnum period, the appellant was implicated as accused in the case in STOR No.3/2003-04, against which, the writ petition in W.P.No.27206 of 2015 came to be filed and the same was dismissed by the order impugned herein.

7. A perusal of the order under challenge in this writ appeal, would go to show that the learned Judge has dismissed the writ petition being premature, after taking note of all the submissions made by the appellant. Treating the impugned proceedings as an Information Report submitted by the Forest Range Officer to the District Munsif-cum-Judicial Magistrate, Thiruvottiyur Court, the learned Judge refused to quash the impugned order. Further, the learned Judge held that the decision of the learned Single Judge of this Court in Moosa v. the District Forest Officer and others (W.P.Nos.44993 of 2006 and 35290 of 2007) has absolutely no application to the facts and circumstances of the appellant's case, as the said writ petition was filed challenging the order of confiscation of red sanders dated 23.02.2004 and the order cancelling the possession

licence dated 23.02.2004.

8. As rightly observed by the learned Judge as referred to above, the proceedings initiated against the appellant is nothing but an Information Report submitted by the Forest Range Officer to the District Munsif-cum-Judicial Magistrate, Thiruvottiyur Court, which does not call for any interference by this Court. Further, there is no reference about the appellant in the order passed by the learned single Judge in quashing the proceedings against the owner of the firm as well as in the judgment passed by the Division Bench, confirming the same. Therefore, we find no error or illegality in the order so passed by the learned Judge of this Court.

9. Accordingly, the writ appeal stands dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

Forest Range Officer,
Head Quarters Range,
DMS Campus,
Teynampet,
Chennai - 600 006.

+1cc to the Spl. Government Pleader Forest, S.R.No.69747

mg (CO)
md(20/12/2016)

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