

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.12335 of 2016.

Decided on:-16.11.2016.

R. Raja Gopal.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Sunil K. Nehra, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

HARI PAL VERMA, J.

R. Raja Gopal, the petitioner has filed present petition under Section 482 Cr.P.C. for quashing of FIR No.180 dated 11.03.2015 under Sections 379/411/420/467/468/471/120-B IPC and Sections 32/33/41/2B/42/69 of the Indian Forest Act, Notification No.16 of 1927 registered at Police Station Civil Lines, Gurgaon.

The aforesaid FIR was registered against the petitioner on the basis of secret information received to the police that Manpreet Singh resident of Moga (Punjab) and Mukesh resident of Sidhrawli will go from Sidhrawli to Delhi through National Highway No.8 for smuggling the stolen sandalwood in connivance with Prehlad son of Lachhman, Ranbir son of Amar Singh, residents of Sidhrawli and Gopal resident of Tamil Nadu. The information being reliable, a raiding party was prepared. Naka was laid down at National Highway No.8 (road goes to Delhi) in front of 32 Mile

Stone. After some time, one truck bearing registration No.NL-01K-9788 was noticed coming from the side of Rajiv Chowk and the police party signalled the driver to stop the truck. The truck was stopped 10 Karams behind the Naka at one side. The driver and the cleaner of the truck tried to escape from the spot, but with the help of fellow associates, they both were overpowered. The driver disclosed his name as Manpreet Singh son of Gurcharan Singh, whereas cleaner disclosed his name as Mukesh son of Suresh. On asking for the paper of the material/goods loaded in the truck, the driver, namely, Manpreet Singh produced two carbon copies of Goods Receipt (GR) of Ashu Transport Service pertaining to 700 pieces of plywood. On checking the truck, the same was found loaded with wood. Accordingly, the Block Forest Officer was directed to check the wood at the spot, who after checking the wood had given a certificate to the police party that these are sandalwood. The sandalwood loaded in the truck was counted which came to be 250 sticks. The truck along with sandalwood and fake GR was taken into possession.

Learned counsel for the petitioner has argued that the petitioner has falsely been implicated in the case. He has no association either with Manpreet Singh driver or cleaner of the truck, namely, Mukesh. The petitioner is owner of Sri Gopal Transport which has its registered office at village Sidhrawli, Tehsil Manesar and has no association with Ashu Transport Service whose GR was being carried by the driver of the truck.

He has further argued that in view of the judgment of Hon'ble

Rajasthan High Court (Jaipur Bench) in ***Asru Versus State of Rajasthan 2015(6) RCR (Criminal) 343***, the offence under the Forest Act is non-cognizable and the petitioner can only be prosecuted by filing a complaint before the authorised/competent officer. No FIR in the present case could have been registered. Reliance has also been placed on the judgment of Hon'ble Supreme Court in ***Keshav Lal Thakur Versus State o Bihar 1997(1) RCR (Civil) 567*** to contend that where neither the police was entitled to investigate the offence nor the Chief Judicial Magistrate to take cognizance upon the report submitted on completion of such investigation, the FIR deserves to be quashed.

On the other hand, learned State counsel has argued that after conducting investigation of the case, the police has submitted Challan against the petitioner and his co-accused Satish and Surjit on 25.9.2015 as incriminating evidence came forth against him. During the course of investigation, accused Manpreet and Mukesh were arrested on 11.3.2015. He has further contended that the petitioner has been booked not only under the Indian Forest Act, but there are other penal sections under the Indian Penal Code, which are cognizable offence and, therefore, the whole case becomes cognizable one.

I have heard learned counsel for the parties.

The judgments cited by learned counsel for the petitioner in ***Asru's case (supra)*** and ***Keshav Lal Thakur's case (supra)*** have no applicability in the facts and circumstances of the present case, as in ***Asru's***

case (supra), the FIR was registered only under the Rajasthan Forest Act, and in *Keshav Lal Thakur's case (supra)*, the FIR was registered against the accused for offence under Section 31 of the Representation of People Act, 1950, which are non-cognizance offences. However, in the case in hand, besides the offence under the Indian Forest Act, which may be non-cognizable offence, the present FIR has also been registered under various penal offences as defined in the Indian Penal Code. Therefore, trial in the case can be segregated.

In the present case, the police party has intercepted a truck carrying sandalwood and even the GR produced by the driver and cleaner of the truck was found to be fake. The police has already submitted Challan against the petitioner in the case.

In view of the above, considering the nature of offences alleged against the petitioner, no case for quashing of the FIR in question is made out. Therefore, the present petition is, accordingly, dismissed.

However, it is made clear that dismissal of the present petition shall not prejudice the case of the petitioner in any manner during trial of the case and the trial Court shall try the case independently in accordance with law.

November 16, 2016

Yag Dutt

**(HARI PAL VERMA)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No