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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P.(MD)No.7841 of 2017

and

CRL.M.P(MD)Nos.5348 and 5349 of 2017

Gandhikumar

: Petitioner/Accused No.3

-Vs-

State through

The Forest Range Officer,
Oddanchatram Forest Range,
In - (W.L.O.R.3/2014),
Dindigul District.

: Respondent/Complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code to call for the records in C.C.No.65 of 2016 on the file of the Judicial Magistrate, Oddanchatram, Dindigul District and quash the same.

For Petitioner

:Mr.M.P.Dhamodaran

For Respondent

:Mr.K.Anbarasan

Government Advocate(Crl.Side)

O R D E R

Forest Officials intercepted a vehicle and seized leopard skin, deer antlers etc., and arrested five accused and thereafter the Forest Ranger has filed a private complaint in C.C.No.65 of 2016 before the learned Judicial Magistrate, Ottanchatram, Dindigul District against the five accused for the offences under Sections 9, 39, 49 and 51 of the Wild Life (Protection) Act 1972, challenging which, the Accused No.3 is before this Court.

2. Heard the learned Counsel appearing for the petitioner/Accused No.3 and the learned Government Advocate (Crl.Side) appearing for the respondent.

3. The learned Counsel appearing for the petitioner/Accused No.3 submitted that the Forest Range Officer does not have the authority to conduct the investigation under the Wild Life (Protection) Act and that under Section 50(8) of the Act, it is only the Officer, not below the rank of an Assistant Conservator of Forests who can conduct the investigation under the said Act. Therefore, he submitted that the investigation conducted by the Forest Range Officer and the consequent complaint filed by him in C.C.No.65 of 2016 stands vitiated. The learned Counsel also



submitted that it was the Forest Range Officer, who had intercepted the vehicle and had registered the case at the first instance and therefore, he cannot proceed further with the investigation as it would cause prejudice to the case of the accused.

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4. Per contra, the learned Government Advocate (Crl.Side) appearing for the respondent refuted the allegations made by the learned Counsel for the petitioner.

5. This Court gave its anxious consideration to the rival submissions.

6. To appreciate the contention of the learned Counsel for the petitioner, it may be necessary to extract Section 50(1) and 50(8) of the Wild Life (Protection) Act, which is as follows:

"50. Power of entry, search, arrest and detention:

(1) Notwithstanding anything contained in any other law for the time being in force, the Director or any other officer authorised by him in this behalf or the Chief Wild Life Warden or the authorised Officer or any Forest Officer or any Police Officer not below the rank of a sub-inspector, may, if he has reasonable grounds for believing that any person has committed an offence against this Act, -

(a) require any such person to produce for inspection any captive animal, wild animal, animal article, meat, "(trophy, uncured trophy, specified plant or part or derivative thereof) in his control, custody or possession, or any licence, permit or other document granted to him or required to be kept by him under the provisions of this Act;

(b) stop any vehicle or vessel in order to conduct search or inquiry or enter upon and search any premises, land, vehicle or vessel, in the occupation of such person, and open and search any baggage or other things in his possession;

[(c) seize any captive animal, wild animal, animal article, meat, trophy or uncured trophy, or any specified plant or part or derivative thereof in respect of which an offence against this Act appears to have been committed, in the possession of any person together with any trap, tool, vehicle, vessel or weapon used for committing any such offence and, unless he is satisfied that such person will appear and answer any charge which may be preferred against him, arrest him without warrant, and detain him;

Provided that where a fisherman, residing within ten kilometres of a sanctuary or National Park, inadvertently enters on a boat, not used for commercial fishing, in the territorial waters in that sanctuary or National Park, a fishing tackle or net on such boat shall not be seized]

....

<https://hcservices.ecourts.gov.in/hcservices/>

[(8) Notwithstanding anything contained, in any other law for the time being in force, any officer not below the rank of an



Assistant Director of Wild Life Preservation or [an officer not below the rank of Assistant Conservator of Forests authorised by the State Government in this behalf] shall have the powers, for purposes of making investigation into any offence against any provision of this Act, -

- (a) to issue a search warrant;
 (b) to enforce the attendance of witnesses;
 (c) to compel the discovery and production of documents and material objects; and
 (d) to receive and record evidence."

7. A bare reading of Section 50 of the Act shows that any Forest Range Officer can stop a vehicle and conduct search and seizure and arrest the accused. Therefore, the Forest Range Officer is lawfully empowered to intercept the vehicle, search, seize and arrest the accused. As regards the contention that the same Forest Range Officer cannot proceed with the investigation further and file the complaint, this issue is no more *raw integra* in the light of the law laid down by the Honourable Supreme Court in ***State represented by Inspector of Police, Vigilance & Anti-Corruption, Tiruchirapalli, Tamil Nadu Vs. V. Jayapaul*** reported in ***(2004) 5 Supreme Court Cases 223*** and in ***S. Jeevanantham Vs. State through Inspector of Police, Tamil Nadu*** reported in ***(2004) 5 Supreme Court Cases 230***.

8. Coming to the first contention of the learned Counsel for the petitioner/accused No.3 that under Section 50(8) of the Wild Life (Protection) Act, it is only the Assistant Conservator of Forests, who can conduct an investigation, this Court is of the view that Section 50(8) of the Act confers power on an Officer not below the rank of Assistant Conservator to issue a search warrant, to enforce the attendance of witnesses, to compel the discovery and production of documents and material objects; and to receive and record evidence. These special powers have been given to superior Officers of the Forest Department to aid in the investigation of the offences under the Wild Life (Protection) Act. In other words, under the normal criminal law, a search warrant can be issued only by a Magistrate. However, the Wild Life (Protection) Act gives such power to the superior Officers of the forest Department, because it may not be feasible for the Forest Range Officers who are investigating the offence in the forest area, to go all the way to a Magistrate and obtain search warrant. Therefore, the conferment of these special powers under Section 50(8) of the Act cannot abridge the ordinary power of the Forest Range Officer to investigate the offences under the Wild Life (Protection) Act and file a complaint before the jurisdictional Magistrate.



9. In the result, this Criminal Original Petition is devoid of merits and the same is dismissed. Consequently, the connected Miscellaneous Petitions are also dismissed.

Sd /-

ASSISTANT REGISTRAR(CRL SIDE)

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SUB ASSISTANT REGISTRAR

To

1. The Judicial Magistrate, Oddanchatram, Dindigul District.
- 2.-Do-Thro the Chief Judicial Magistrate, Dindigul.
3. The Forest Range Officer,
Oddanchatram Forest Range,
In - (W.L.O.R.3/2014),
Dindigul District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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MAS/MR-KKR/SAR2:12.07.2017:4P-5C

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