

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELENGANA AND THE STATE OF ANDHARA PRADESH**

CRIMINAL PETITION No.7106 of 2018

Between:

A. Ramesh and 5 others

.....Petitioners

and

The State of Andhra Pradesh rep. by its Public Prosecutor

.....Respondent

Date of Judgment pronounced on : 24-07-2018

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

1. Whether Reporters of Local newspapers : Yes/No
May be allowed to see the judgments?
2. Whether the copies of judgment may be marked : Yes/No
to Law Reporters/Journals:
3. Whether The Lordship wishes to see the fair copy : Yes/No
Of the Judgment?

*** HON'BLE DR. JUSTICE B. SIVA SANKARA RAO**

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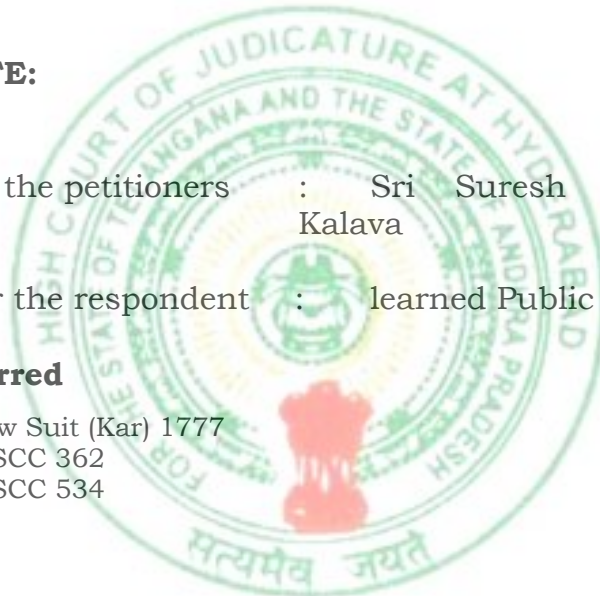
> HEAD NOTE:

! Counsel for the petitioners : Sri Suresh Kumar Reddy
Kalava

^ Counsel for the respondent : learned Public Prosecutor

? Cases referred

1. 2015 Law Suit (Kar) 1777
2. 2012 4 SCC 362
3. 1984 2 SCC 534



HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO**CRIMINAL PETITION No.7106 of 2018****ORDER:**

The petitioners who are residents of Polur Taluk, Tiruvanamalai District, Tamilnadu State, are accused Nos.1 to 6 in crime No.57 of 2017 of II Town Police Station, Chittoor, registered for the offences punishable under Sections 447, 427, 379, 411, 414 r/w 34 IPC and Section 20(1)(d)(i) of AP Forest Amended Act 2016, Section 36 of AP Forest Act r/w 32(A) of the amended Act 2016, Section 3 of Prevention of Damages of Public Property Act, 1984, Sections 55() & (2) of Bio Diversity Act, 2002 r/w Sections 3, 4 & 6 of Bio Diversity Act, 2002. They were arrested on 16.12.2017 in some other crime and on PT warrant they were produced in the above crime on 09.01.2018 and they are in judicial custody in this crime since then. The crime registered was on 22.06.2017 as per the charge sheet filed in February 2018 before the committal Magistrate in the above crime against the petitioners with such array, is that on 22.06.2017 at Chennai-Bangalore bypass road near Neeva River Bridge, Iruvaram, Chittoor, found some unknown persons carrying 12 red sandal logs and 2 motor vehicles and 2 autos and when they tried to stop, they escaped leaving the vehicles i.e., Pulsar 150 CC vide registration No.KA-53-EE-9107 and TVS-XL and two passenger autos bearing No.AP-04-Y-7226 and AP-26-TF-1370 and the red sandal logs 12 in number

weighing 161 kgs worth about Rs.3,20,000/- that was seized under panchanama and the same reported to the Police Station, Chittoor, II Town by 06.30 AM and in the panchanama proceedings from the interception and seizure conducted by LW.11-IO assisted by Lws.1 to 4 subordinate police personnel, the independent mediators Lws.5 & 6, T.Venkatesh & Kiran Kumar and LW.7-T.Bharathi and LW.8-P.Venugopal Reddy mediators to the arrest of the accused persons subsequently and their disclosure in the course of investigation by LWs.12 & 13 also and from completion obtained permission of DFO-LW.10 in getting prosecution orders since handover the property which is a forest produce with vehicles to K.Ramesh, Forest Beat Officer, arrest of accused on 16.12.2017 by saying the accused at the time of arrest made voluntary disclosures about their complicity to the crime among other facts in the FIR no doubt.

2. The contentions of the learned counsel for the petitioners in the regular bail application with reference to the facts supra are that they are innocent and they are poor living by coolie work and their families in destitution because of their in judicial custody and they committed no offence and the prosecution case not true are that they came to Kanipakam for darshan of Lord Sri Varasiddi Vinayaka Swamy Temple and after that came to bus stand to go to their village and however police arrested on suspicion.

3. As mentioned in the bail application earlier they moved for bail before the learned I Additional Sessions Judge, Chittoor, in Crl.M.P.No.891 of 2018, that was ended in dismissal which reads that the accused were involved not only in the present crime No.57 of 2017 but also other crime No.49 of 2017 whereunder they were remanded to judicial custody on 16.12.2017 and secured on PT warrant in this crime on 09.01.2018 and from the propensity of the crime and they are involved more than once in similar serious offence being habitual of indulging in similar offences and earlier their bail application ended in dismissal with no changed circumstances even to consider the 2nd bail application.

4. Learned Public Prosecutor with reference to the facts opposed the bail application.

5. A perusal of the record shows they were involved also in crime No.34 of 2017 where they were enlarged subject to the conditions vide bail order in Crl.M.P.No.772 of 2018 dated 25.04.2018 where the red sandal under illegal transportation in which they involved the 11 logs of 125 kgs with Hyundai Accent car and the crime was almost for the similar offences to the present one dated 23.08.2016 at peraiyahgaripally bus stop, Pattoor-Irala main road and there it shows when the vehicle caught hold the unknown accused get down and revolted on police armed with axes and knife and escaped from the police attempted apprehension despite chased

thereby the vehicle and red sandal logs were seized the bail considered because there charge sheet filed. In another crime No.49 of 2017, Irala PS, for almost similar offences they filed bail application in Crl.M.P.No.652 of 2018 that was allowed on 23.04.2018 with observations of by then 4 months elapsed and charge sheet filed and investigation completed. However, fact remains that from the record it is the third crime in which they involved it shows from modes operandi to the commission of the crime with pretence of entering from their State into the State of AP as if pilligrims of one temple or other to facilitate the entry in commission of the crimes.

6. The learned Public Prosecutor opposed the bail application with such say by placing reliance on two expressions one is a single Judge expression of the Karnataka High Court in **Mohammad Sharif; VP Ibrahim Badasha; Yusuf Vs. State of Karnataka**¹ for the offences involving red sandal logs covered by Wild Life Protection Act, Karnataka Forest Act offences, what was observed is the Supreme Court in **TN Godavarman Thirumulpad Vs. Union of India and Others**² held that red sanders wood is endemic and an endangered species that in the absence of any statute declaring it to the contrary, the law propagated by the Apex Court is the law of the land and binds all in International Union of Conservation of Nature (IUCN) dedicated to find

¹ 2015 Law Suit (Kar) 1777

² 2012 4 SCC 362

pragmatic solutions of our most pressing environment and development challenges included *Santalum album* Linn in its red list as endangered which is Indian Red sander wood of threatened species as vulnerable and there is extremely high risk of its extinction and it is but for in some of the places in south India especially in Cuddapah and Chittoor in AP border to Tamilnadu no where in the world available and it is possessing medicinal properties and trading is mostly in south India in AP which can be only through AP Forest Corporation officially by Government for otherwise banned to deal with by private parties since the wood is of huge demand in Japan, china and western world and is very costly and it is included in the 38 negative list of plant species for export purposes, implemented by the Directorate General of Foreign Trade, Ministry of Commerce placing restrictions on international trade of red sanders and despite large scale smuggling of red sanders reported from various quarters and State of AP included in schedule VI of Wild Life Protection Act.

In **Gramophone Company of India Vs. Birendra Baldev Pandey**³ and which the Central Government to take steps and the Apex Court in **TN Godavarman supra** given a direction for such inclusion being the red sander an endangered species and it is necessary for the courts of law to adopt stringent approach as deterrent to indiscriminate cutting and smuggling of red sanders wood as held by the

³ 1984 2 SCC 534

Apex Court and it is irrelevant to take note of a recent incident of death of 20 persons in the Forest of Chittoor, AP, which absolutely mandates a stringent and conservative approach to the cases involving red sanders wood. It is a national wealth and thereby the petitioners and others like the petitioners indulge in illegal trade are not entitled to the concession of bail therefrom indulging in obstruction of the invaluable natural wealth and thereby no sympathy can be deserved by them to any concession of bail under personal liberty to impede the national wealth.

7. The said expression of the Apex court in **TN Godavaraman supra** referred in **Mohd Sharif supra** reiterates the same that was reproduced to the relevancy supra no way requires repetition what the Apex Court in the last para observed is a legislation similar to the Endangered Species Act, enacted in the United States which protects both endangered species defined as those in danger of extinction throughout all or a significant portion of their range and threatened species, those likely to become endangered within a foreseeable time. The term species includes species and sub-species of fish, wildlife and plants as well as geographically distinct populations of vertebrate wildlife even though the species as a whole may not be endangered and we hope Parliament would bestow serious attention in this regard.

8. In fact this Court also way back in 2015 while disposing of the bail application in Crl.P.No.5830 of 2014 dated 05.06.2014 in **G.Ramanath Reddy @ V. Ramanath Reddy Vs. State** observed that in the larger interest of the society and to save the national wealth and to protect the environment and to serve as a threat to those impeding the wealth by choosing to commit theft and in smuggling the valuable red sandal wood and getting illegal wealth in crores; like in NDPS Amended Act 2001; it is just to draw attention of the Government to make necessary amendments in Sections 20 & 29 of the AP Forest Act, which as on date with lenient punishment so as to provide deterrent punishments by defining small, large and above small and below large quantities of the red sandal with stringent punishment, depending upon such grades, equally in the transit rules to serve in protecting wealth. It was also observed therein that the crime registered for 266 kgs of red sandal wood involved as if only involving Sections 20 & 29 of AP Transit Rules 1969 besides IPC offences of theft and attempt to attack public conservative the police official and mischief and use of force and assault on public conservative it since attracts penal provision like Section 20(1)(d) and Section 29 of AP Forest Act and Section 3 of Prevention of Damages to the public property Act and Sections 55 & 58 of Bio Diversity Act besides Wild Life Protection Act penal provisions.

9. Though bail was granted therein it was not brought to the notice of this Court the further importance of the expression already of the law laid down by the Apex Court in **TN Godavaraman supra.**

10. A perusal of the above law from the expressions of the Constitutional Courts clearly indicates that the petitioners are not deserving to the concession of the bail though under personal liberty or from long incarsanation since in judicial custody from 16.12.2017 and particularly in this case from 09.01.2018 even they were granted bail in 2 other crimes, which are prior in point of time. So far as present crime concerned, referring to that this is third time involvement of them in similar nature of crimes.

11. Having regard to the above and in the result, this Criminal Petition is dismissed and charge sheet already filed and committal case number allotted, if not committed the committal Magistrate shall make every endeavour to commit since compliance to Section 209 clauses (a) to (d) Cr.P.C. it is almost a post office duty.

Miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 24.07.2018

Note: LR Copy to be marked

(B/o)

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