

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.1692 of 2018**

1. Lokeshwar Singh Thakur S/o Late Samrat Singh Thakur Aged About 64 Years R/o Boirdadar, Shri Ram Colony, In The Back Of Stadium Thana Chakerdharnagar Tahsil And District Raigarh Chhattisgarh
2. Pradeep Singh Thakur S/o Lokeshwar Singh Thakur Aged About 33 Years R/o Boirdadar, Shri Ram Colony, In The Back Of Stadium Thana Chakerdharnagar Tahsil And District Raigarh Chhattisgarh

---- **Petitioners****Versus**

- State Of Chhattisgarh Through District Magistrate Raigarh District Raigarh Chhattisgarh

---- **Respondent**-----
For the Petitioner : Shri Shri Kishore Bhaduri, Advocate

For the respondent/State: Shri AN Bhakta, Dy. Advocate General

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****12.3.2019.**

1. This petition preferred under Section 482 of the Code of Criminal Procedure, 1973 is against order dated 03.4.2018 passed by Fifth Additional Sessions Judge, Raigarh (CG) in Criminal Revision No.37/2018 whereby the criminal revision filed by the petitioner against the order dated 13.3.2018 passed by Judicial Magistrate First Class, Raigarh in Criminal Case No.312/2017 has been partly allowed.

2. Deputy Ranger of Forest Department, Raigarh filed complaint under Sections 9, 39, 40, 42, 51 and 52 of the Wild Life Protection Act, 1972 against the petitioners. Cognizance was

taken by the Court of Judicial Magistrate First Class, Raigarh which was challenged in revision.

3. Learned counsel for the petitioners submits as under:

(i) As per the provisions of Protection of Wild Life Act, only complaint case can be filed but in the present case procedure of the complaint case was not followed therefore, the proceedings is void ab-initio.

(ii) The revisional Court has utterly failed to comply law applicable in the present case. Therefore, same is liable to be set aside. He placed reliance in the matter of **Surya Bhan Vs. State of UP & Anr.** reported in **(2007) 3 All LJ 158**.

4. On the other hand, learned counsel for the State submits that any officer who is the custodian of wild life can file complaint before the competent Court and it is for the Court to deal with the issues according to the law, therefore, it is not a case where interference of this Court is required as there is no abuse of process. The trial Court will proceed in accordance with law and opportunity of hearing will be provided to both sides, therefore, it cannot be said that interference of this Court is required to secure the ends of justice.

5. From the record it is clear that the complaint was filed by the Officer of the rank of Deputy Ranger of Forest. As per Section 55 of the Wild Life Protection Act, any authority who is the custodian of the wild life can file complaint before the trial Court. In the present case Deputy Ranger is the officer who is the custodian of wild life, therefore, he was competent to file complaint before the trial Court. The revisional Court opined that

the case should be tried as per provisions contained in CrPC for complaint case.

6. As per the order sheet of the trial Court, the case was fixed for recording evidence before charge. Recording evidence before charge is a procedure envisages under the CrPC, for the complaint case to which the trial Court has complied. The petitioner has right to defend his case by adducing oral and documentary evidence and he is free to produce any document in support of his case. Therefore, it is not a case where interference of this Court is required. The case law cited by learned counsel for the petitioner does not help to him as the same is distinguishable from the facts of the present case.

7. Order passed by the revisional court is proper and proceedings drawn by the trial Court also appears to be genuine. Accordingly, the petition is liable to be and is hereby dismissed.

Sd/-
(Ram Prasanna Sharma)
JUDGE