



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:09.12.2020
CORAM
THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD).No.14686 of 2016

and

Crl.M.P.(MD).Nos.6871 and 8912 of 2016

WEB COPY

1.Mohamed Rizwan

2.Suldan Alavudeen

... Petitioners/Sole Accused

Vs

The Forest Range Officer,
Oddanchatram Range Office,
Oddanchatram.

(Ref. WLOR No.2/2015)

... Respondent/complainant

PRAYER: Criminal Original Petitions filed under Section 482 of Cr.P.C, praying to call for the records relating to the case in C.C.No.66 of 2016 on the file of the learned Judicial Magistrate, Oddanchatram and quash the complaint filed by the respondent and consequential all further proceeding as against the petitioners.

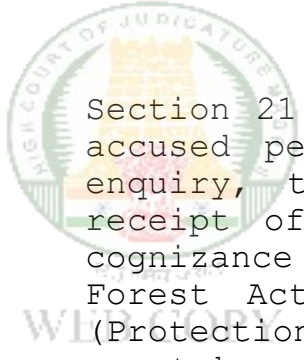
For Petitioners : Mr.Ajmal Khan
Senior Counsel
For M/S.D.Shanmuga Raja Sethupathi

For Respondent : Mr.R.Erottuchamy
Government Advocate (Crl. Side)

ORDER

This criminal original petition has been filed to quash the proceedings in C.C.No.66 of 2016 on the file of the learned Judicial Magistrate, Oddanchatram as against the petitioners.

2.The learned Senior counsel appearing for the petitioners submitted that totally there are seven accused in this case, in which, the petitioners have been arrayed as A5 and A6. The respondent has lodged a complaint alleging that when the Forest Guards and Watchers had intercepted a vehicle viz., SKODA, where the accused persons, were travelling and they were found in possession of flesh of Sambar Deer weighing about 10 kgs and remains of killed Sambar Deer such as legs, head and bones. On enquiry, it revealed that they were alleged to have confessed that they have hunted the Sambar Deer by using DBBL gun and sporting riffle. Accordingly, the respondent has registered a case in W.L.O.R.No.2 of 2015 for the offence under Section 21(d)(h) of Tamil Nadu Forest Act, 1882, Sections 9, 39, 49 and 50 of the Wild Life Protection Act, 1972 and



Section 21(2) of the Tamil Nadu Forest Act, 1882 against the seven accused persons, including the petitioners. After completing the enquiry, the respondent had lodged a impugned complaint and on receipt of the same, the learned Judicial Magistrate, had taken cognizance for the offence under Section 21(d)(h) of the Tamil Nadu Forest Act, 1882 and Sections 9, 50 and 51 of the Wild Life (Protection) Act, 1972. He further submitted that the offence which was taken cognizance under under Section 21(d)(h) of the Tamil Nadu Forest Act, 1882 and Sections 9, 50 and 51 of the Wild Life (Protection) Act, 1972, are compoundable in nature and the petitioners ought to have given opportunity for compounding the offence before the lodgment of the complaint. The learned senior counsel also brought to the notice of this Court in support of his case about G.O.Ms.No.752 Forest and Fisheries, dated 23.06.1981 issued for General Instructions for the Guidance of Forest Subordinates in the Prosecution of Forest Offences. It is relevant to extract Sub Section 3 of Section 3 of General Instructions for the Guidance of Forest Subordinates in the Prosecution of Forest Offences passed in G.O.Ms.No.752 Forest and Fisheries, dated 23.06.1981, which is as follows:

3.(3) If the order is to compound, the C Form communication to the Range Officer should be accompanied by notices in duplicate in Form G. The Range Officer will then take steps to serve the G Form notice on the accused. If the compounding fees are paid within thirty days from the date of service by all the accused, the Range Officer will return the duplicate of Form C to the District Forest Officer with his endorsement on the back of it. He should retain the triplicate of Form C except in cases in which a report in Form H has been submitted in the first instance. In such cases, he will forward to the Magistrate the triplicate copy of Form C after noting on it the fact of payment of the compounding fees and the number and date of that corresponding report in Form H submitted in the first instance.

If compounding fees are not paid within the period of thirty days, the Range Officer, besides returning the duplicate copy of Form C with his endorsement to the District Forest Officer, will forward to the Magistrate Form A together with the triplicate of Form C after noting on the latter that compounding fees have not been paid within the time allowed or in cases where there are several accused persons which of them have paid and which have not.

3. Accordingly, the respondent ought to have taken steps to serve 'C' form notice to the accused in order to compound offence. Admittedly, in the case on hand, the respondent failed to take any steps with regard to compounding the offence to the petitioners. Therefore, the petitioners were not given opportunity to compound the offences as alleged by the respondent. The learned Senior counsel submitted that the petitioners are ready and willing to compound the offence by paying fine amount imposed by the respondent herein.

4. Considering the above submission, the impugned complaint in C.C.No.66 of 2016 on the file of the learned Judicial Magistrate, Oddanchatram, is hereby quashed. Further, the respondent is directed to proceed further as per G.O.Ms.No.752 Forest and Fisheries, dated 23.06.1981 as against the petitioners and other accused persons in accordance with law and the entire proceedings should be completed within a period of eight weeks from the date of receipt of a copy of this order.

5. Hence, this criminal original petition is allowed. Consequently, the connected criminal miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1. The Judicial Magistrate,
Oddanchatram.
2. The Forest Range Officer,
Oddanchatram Range Office,
Oddanchatram.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



+1 CC to Mr.D.Shanmuga Raja Sethupathi, Advocate (SR-24943[F] dated 10/12/2020)

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(MJ)

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