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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL. O.P. NO.21633 OF 2017

AND

CRL.M.P.NO.12707 OF 2017

Mr.K.M.Abraham

... Petitioner

Versus

State Rep. by
The Forest Range Officer
Bitherkad Range
The Nilgiris
(Offence Report No.15 of 2009)

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C. No.309 of 2014 pending on the file of learned Judicial Magistrate, Pandalur and quash the same.

For Petitioner : Mr.Abudukumar Rajarathinam
for Mr.V.S.Senthil Kumar

For Respondent : Mr.S.Vinoth Kumar
Govt. Advocate (Crl.Side) for R1

ORDER

This Criminal original petition is filed under Section 482 Cr.P.C. to quash the Offence Report filed for the offences under Section 9, 39(1)(d), 3(c) and 51(1) of the Wild Life Protection Act, 1972.



2. The case of the prosecution case is that, on 06.08.2009, A1 and A2 fixed a snarl in the fence of the estate known as Simpson Estate, as a result, a panther died and thereby, they committed an offence under Sections 39(1)(d), 3(c) and 51(1) of the Wild Life Protection Act, 1972. The petitioner before this Court is arraigned as 3rd Accused.

3. The contention of the learned counsel appearing for the petitioner is that the 3rd accused is a practising lawyer in Kerala and is never residing in Gudalur and is not owning any estate called Simpson estate, whereas his estate is known as Sudha Estate. At any event, the confession of A1 and A2 clearly show that A3 has never involved in any such offence. Therefore merely some trap has been put up by A1 and A2 who are residents of the area, and A3 who is away from the estate, cannot be prosecuted, hence prayed for quashing of the proceedings against A3.

4. It is the contention of the learned Government Advocate (Criminal Side) appearing for the State that the prosecution version is that A3 is the owner of the estate called Simpson Estate. Therefore, whether he is the owner or not, cannot be gone at this stage, hence prayed for dismissal of this petition.

5. First of all, killing of a Wild life is a very serious offence. Any person who involves in such an act, cannot be let out on technical grounds, but at the same time, if prosecution is launched, against a person, there must be some materials to connect him with the crime. It is the case of the prosecution that A1 and A2 have fixed a trap using wire in the fence of Simpson Estate, as a result the panther got entangled and died. It is not the case of the prosecution that A3 is also actively involved or he has instigated the said offence anywhere. He has been implicated mainly on the ground that he is the owner of the said estate. Excepting the said contention, no other overt act, whatsoever was raised against A3.

6. The statements recorded by the Forest Officer from A1 and A2 clearly indicate that they themselves committed the offence without the intervention of anyone. Such being the position, merely on the ground that A3 is the owner of the estate, without any material to connect him with the offence, he cannot be prosecuted. In such view of the matter, the charge against A3 alone is quashed. The trial Court shall dispose of the main case as against the A1 and A2, within a period of three (3) months, from the date of receipt of a copy of this order.



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7. With the above observation and direction, the criminal original petition is allowed. Consequently, the connected criminal miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

psa/asr

To

1. The Judicial Magistrate,
Pandalur.
2. The Forest Range Officer
Bitherkad Range
The Nilgiris
(Offence Report No.15 of 2009)
3. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.V.S.Senthil Kumar, Advocate, S.R.No.64630

Cr1. O.P. No.21633 of 2017

JP-II(CO)
RLP(04/01/2022)