



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2021

CORAM :

THE HONOURABLE Mrs. JUSTICE R. HEMALATHA

Crl.O.P.(MD)No.3644 of 2021

and

Cr.M.P(MD) Nos.2017 and 2018 of 2021

Issac ... Petitioner/Sole Accused

Vs.

The Forest Range Officer,
Forest Range Office,
Azhagiapandipuram,
Kanniyakumari District. ... Respondent/Complainant.

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records in C.C.No.6 of 2020 on the file of the Special Court for Forest Offence Cases, Nagercoil, Kanniyakumari District, and quash the same.

For Petitioner	: Mr.G.V.Vairam Santhosh
For Respondent	: Mr.A.Robinson, Government Advocate (Criminal side)

ORDER

The present petition is filed by the petitioners under Section 482 of the Code of Criminal Procedure, 1973, to quash the proceedings in C.C.No.6 of 2020, on the file of the Special Court for Forest Offence Cases, Nagercoil, Kanniyakumari District.

2.The case of the prosecution is that on 27.07.2009, when the respondent / Forest Range Officer, inspected the land in Survey No.614 at Therisancope Village, Kanyakumari District, he found some branches of a rose wood tree were removed and therefore, charged the petitioner for the offence under Sections 3(1)(a), 3(2) and 7 of the Tamil Nadu Preservation of Private Forest Act, 1949 and Section 3 of the Tamil Nadu Rosewood Trees (Conservation) Act, 1994.

3.The primordial submission of Mr.G.V.Vairam Santhosh, learned counsel for the petitioner is that he is not the owner of the land in Survey No.614 at Therisancope Village, Kanyakumari District and that since the petitioner is more than 60 years old, he cannot remove the branches of the tree.



4.A perusal of the final report filed before the Judge, Special Court for Forest Offence Cases, Nagercoil, Kanniyakumari District, shows that apart from Sections 3(1)(a), 3(2) and 7 of the Tamil Nadu Preservation of Private Forest Act, 1949, Sections 3 and 6 of the Tamil Nadu Rosewood Trees (Conservation) Act, 1994, has also been invoked.

5.It is appropriate to extract Sections 3 and 6 of Tamil Nadu Rosewood Trees (Conservation) Act, 1994, which reads as follows :

"3. Prohibition of cutting, etc., of rosewood tree. -

Notwithstanding anything contained in any law for the time being in force or in any custom or usage, or in any judgment, decree or order of any Court or other authority, no person shall cut, fell, girdle, lop, tap, uproot or bum or otherwise damage any rosewood tree in any forest or do any act likely to endanger its existence or result in the extinction of its species:

Provided that dead or fallen rosewood tree may be removed with the permission of the prescribed authority in accordance with such rules as may be prescribed.

6. Offences and penalties. - (1) Any person who contravenes any provisions of this Act, or any rule or order made thereunder shall, on conviction, be punishable with imprisonment for a term which may extend to five years and with fine which may extend to twenty thousand rupees:

Provided that-

(a) for a first offence, the term of such imprisonment shall not be less than two years and such fine shall not be less than seven thousand and five hundred rupees;

(b) for a second or subsequent offences, the term of such imprisonment shall not be less than three years and such fine shall not be less than fifteen thousand rupees.

(2) When any person is convicted of an offence against this Act, the Court trying the offence may order that any rosewood tree in respect of which the offence has been committed, and any package, covering, receptacle tool, weapon, animal, vehicle, vessel, boat or conveyance used in the commission of the said offence be forfeited to the Government and



such forfeiture shall be in addition to any other punishment that may be awarded for such offence."

6. In the circumstances, even if it is assumed that the petitioner is not the owner of the Survey No.614 at Therisancoppe Village, Kanyakumari District, it cannot be said that he has not committed any offence punishable under Sections 3(1)(a), 3(2) and 7 of the Tamil Nadu Preservation of Private Forest Act, 1949 and Section 3 of the Tamil Nadu Rosewood Trees (Conservation) Act, 1994.

7. In the result, this Criminal Original Petition is dismissed as devoid of merit. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (W)

// 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 SPECIAL COURT FOR FOREST OFFENCE CASES,
NAGERCOIL, KANNIYAKUMARI DISTRICT,

2. THE FOREST RANGE OFFICER, FOREST RANGE OFFICE,
AZHAGIAPANDIPURAM, KANNIYAKUMARI DISTRICT.

3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

Crl.O.P. (MD) No.3644 of 2021
16.03.2021

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