



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.19802 of 2021

and

Crl.M.P. (MD)Nos.11128 and 11132 of 2021

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1.Muthupandi
2.Muthuramalingam
3.Paramaguru
4.Velusamy
5.Chandran

... Petitioners

Vs.

The Forest Ranger Officer,
Sapptur Forest Range,
Sapptur,
Virudhunagar District.
(W.L.O.R.No.1 of 2020)

... Respondent

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the complaint in C.C.No.47 of 2020 on the file of the District Munsif Court Cum Judicial Magistrate Court, Peraiyur and quash the same as illegal as against the petitioners.

For Petitioners : Mr.T.Vadivelan
For Respondent : Mr.E.Antony Sahaya Prabahar,
Addl. Public Prosecutor.

O R D E R

Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the respondent.

2.The petitioners are facing trial in C.C.No.47 of 2020 on the file of Judicial Magistrate, Peraiyur for various offences under Wild Life (Protection) Act, 1972. The petitioners were working as temporary staff in the forest department. In Sapptur forest range, an elephant was found dead and the petitioners herein on the instructions of the forest ranger had burnt the carcass. According to the prosecution, when a protected wild animal is found to be dead, postmortem will have to be performed by the veterinary doctor and only after getting suitable instructions from District Forest Officer, the carcass can be disposed of. In this case, the accused had on their own disposed of the carcass by burning it by using petrol. As a result, the cause of the elephant's death could not be ascertained. It is for this reason, the impugned prosecution has been launched.



3.The learned counsel for the petitioners states that the first accused/N.Srinivasan filed Crl.O.P.(MD)No.13237 of 2020 and interim stay has been granted on 04.12.2020. A copy of the interim order has been enclosed at page No.59 of the typed set of papers.

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4.It is well settled that an interim order is not having any binding effect as such. It is further seen that the said interim order is non-speaking. Therefore, it is open to this Court to give a disposal to this case on merits.

5.The learned Additional Public Prosecutor would point out that the petitioners have not disputed their act. Their act on the face of it attracts the provisions of Wild Life (Protection) Act, 1972. It is true that the petitioners have not acted on their own but only on the instructions of the first accused. This may be a mitigating circumstance in their favour. But this has to be pleaded only before the trial Court. The contentions put forth in the memorandum of grounds are absolutely insufficient to invoke the inherent powers of this Court to quash the impugned prosecution. I do not find any ground to interfere. This criminal original petition stands dismissed. However, taking into account the overall facts and circumstances, the personal appearance of the petitioners before the Court below is dispensed with. However, the Court below will insist on the personal appearance of the petitioners only on three occasions namely, to answer the charge, for examination under Section 313 of CrPC and at the time of pronouncing Judgment. On all other occasions, the petitioners need not appear before the Court below. However, on those occasions, the petitioners will have to be represented by their counsel. If the petitioners' counsel is also absent, the benefit of dispensing with the personal appearance of the petitioners will stand automatically vacated. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar(CS)

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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 District Munsif Cum Judicial Magistrate,
Peraiyur.

2.The Forest Ranger Officer,
Sapptur Forest Range,
Sapptur,
Virudhunagar District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Crl.O.P(MD)No.19802 of 2021
14.12.2021

PK(CO)

GC(28.12.2021) 3P 4C