



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL OP(MD) . No.14620 of 2021

&

CRL MP(MD) . Nos.7719 & 7721 of 2021

WEB COPY

M.Sanjeevi

... Petitioner/Accused No.2

Vs

The Forest Range Officer,
Sivagiri Range Office,
Sivagiri,
Tirunelveli District,
(Ref.WLOR No.1/2020)

... Respondent/Complainant

PRAYER :- This Criminal Original Petition filed under Section 482 Cr.P.C.to call for the records relating to the case in C.C.No.200 of 2020 on the file of the Learned Additional District Munsif cum Judicial Magistrate, Sivagiri and quash the complaint filed by the respondent and consequential all further proceeding as against the petitioner.

For Petitioners : Mr.D.Shanmugaraja Sethupathi

For Respondent : Mr.B.Thanga Aravindh

Government Advocate (Criminal Side)

ORDER

The Criminal Original Petition has been filed to quash the C.C.No.200 of 2020, on the file of the learned Additional District Munsif cum Judicial Magistrate, Sivagiri.

2.The case of the prosecution is that the accused persons were found in possession of a Revolver bearing No.R3187-2011 which was loaded with 6 bullets. In this regard, a case in W.L.O.R.No.1 of 2020 has been registered for the alleged offence under Section 21(d) of Tamil Nadu Forest Act, 1882 and Section 9, 27, 31 of the Wild Life Protection Act, 1972 against the accused persons.

3.The learned counsel appearing for the petitioner submitted that the offence under Section 21(d) of Tamil Nadu Forest Act, 1882 and Section 9, 27, 31 of the Wild Life Protection Act, 1972 are compoundable in nature. The Government of Tamil Nadu vide G.O.Ms.No.752, Forest and Fisheries, dated 23.06.1981 issued general instructions for the guidance of the Forest Subordinates in the prosecution of Forest offences. Section 3(3) reads as follows:

"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 FI 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."

As per the above, the respondent ought to have taken steps to issue Form-C notice to the accused, in order to compound the offence, whereas, in the case on hand, no evidence was produced to show that the respondent issued Form-C notice to the petitioner, by giving him an opportunity to compound the offence. Therefore, it amounts to violation of principles of natural justice. Since the petitioner was not given an opportunity to compound the offence, as alleged by the respondent, now the petitioner is again willing to compound the offence, as per G.O.Ms.No.752, Forest and Fisheries, dated 23.06.1981.

4.In view of the above, this Criminal Original Petition is allowed and the impugned C.C.No.200 of 2020, on the file of the learned Additional District Munsif-cum-Judicial Magistrate, Sivagiri, is hereby quashed. The respondent is directed to proceed as per G.O.Ms.No.752, Forest and Fisheries, dated 23.06.1981, as against the petitioner and issue Form - C notice and complete the proceedings, within eight weeks, from the date of receipt of a copy of this order. If the petitioner fails to compound the offence, the entire proceedings in C.C.No.200 of 2020, on the file of learned Additional District Munsif cum Judicial Magistrate, Sivagiri can be restored to file and the trial Court shall proceed with the trial, in accordance with law. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2022

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 Additional District Munsif Cum Judicial Magistrate, Sivagiri.

2. The Forest Range Officer,
Sivagiri Range Office,
Sivagiri,
Tirunelveli District,
(Ref.WLOR No.1/2020)

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

+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate (SR-13363[F] dated 22/03/2022)

ORDER
IN

CRL OP(MD) . No.14620 of 2021

**&
CRL MP(MD) . Nos.7719 & 7721 of 2021**

Date : 21/03/2022

SS/04.04.2022 : 3P/5C