



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CrI.O.P.(MD)No.20789 of 2021 and

CRL.M.P.(MD)No.11885 of 2021

WEB COPY

1. H.Bakrudeen
2. Ibrahim @ Mohamed Ibrahim
3. Ponraj @ Pounraj

... Petitioners / Respondents /
Accused 1 to 3

Vs.

The State rep. By,
The Forest Ranger,
Ayakudi Beat,
Oddanchathiram Forest Range,
Dindigul District.

... Respondent / Petitioner /
Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the impugned order passed by the learned Judicial Magistrate, Palani, made in Cr.M.P.No.2232 of 2021 in C.C.No.103 of 2019 dated 19.11.2021 and set aside the same.

For Petitioners : Mr.C.Gangai Amaran

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor.

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

2. The petitioners are facing trial in C.C.No.103 of 2019 for having committed various offences under the Wild Life (Protection) Act and Tamil Nadu Forest Act. The prosecution side is already over. When the matter was posted for argument, the prosecution filed CrI.M.P.No.2232 of 2021 under Section 216 of Cr.P.C. for adding charges under the Arms Act. The said petition was allowed vide Order dated 19.11.2021. Challenging the same, this criminal original petition has been filed.

3. There can be no dispute that for prosecuting a person for the offences under Sections 25(1B)(a) of the Arms Act, previous sanction from the District Collector is required under Section 39 of the Arms Act. That is why, the Court below in the impugned order had mandated that the complainant should immediately obtain sanction.



4. Sections 39 of the Arms Act states that no prosecution shall be instituted against any person in respect of any offence under section 3 without the previous sanction of the District Magistrate. It means that obtaining sanction is the condition precedent. In other words, even for taking cognizance, sanction must be obtained. A cart cannot be placed before the horse. Therefore, when admittedly, the prosecution has not obtained previous sanction under Section 39 of the Arms Act, the Court below could not have passed the impugned order. Therefore, the order impugned in this criminal original petition is set aside.

5. This criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PMU

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,
Palani.
2. The Forest Ranger,
Ayakudi Beat,
Oddanchathiram Forest Range,
Dindigul District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Crl.O.P. (MD)No.20789 of 2021
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