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Crl OP Nos. 6508 & 20983 / 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Criminal Original Petition Nos. 6508 & 20983 of 2021
and
Crl.M.P. Nos. 4314, 4331, 11373 & 11375 of 2021

S.K. Singh ... Petitioner in both the petitions

Versus

Deputy Director, Annamalai Tiger Reserve,
Pollachi one of the coimbatore District,
Forest Committee Member. ... Respondent in both the
petitions

COMMON PRAYER : Criminal Original Petitions filed under Section 482 of the Criminal Procedure Code seeking to call for the records in C.C. Nos. 30 & 31 of 2020 on the file of the District Munsiff cum Judicial Magistrate at Valparai and quash the charges in the proceedings registered against petitioner in the above cases.

For Petitioner : Mr. P. Govindarajan for
Ms. R. Bavani Sekar.

For Respondent : Mr. A. Damodaran,
Additional Public Prosecutor.



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COMMON ORDER

These petitions are to quash the complaints in C.C. Nos. 30 & 31 of 2021 for the alleged offence under Sections 7(1) of the Tamil Nadu Preservation of Private Forest Act, 1949 and 7 of the Tamil Nadu Hill Area (Preservation of Trees), 1955.

2.(a) It is alleged in the complaint in C.C. No. 31 of 2020 that while the forester under the control of the complainant, was patrolling the area of Vellamalai, Nadumalai and Sholaipadi in S.F. Nos.34/7 & 18, 35, 32/2, 4, 7, 8, 12 & 13 of Anamalai Hills Village owned by M/s.Periyakarumalai Tea Produce Company Ltd., they found 102 stumps of spontaneous trees and few silver oak trees; that these trees were illicitly felled by the estate authorities without prior permission of the District Forest Committee; that the accused is punishable under Section 7(1) of the Tamil Nadu Preservation of Private Forest Act, 1949 and 7 of the Tamil Nadu Hill Area (Preservation of Trees), 1955.

(b)that it is alleged in the complaint in C.C. No. 30 of 2020 that



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while the forester under the control of the complainant, was patrolling the area of Periya Karumalai estate in S.F. No. 4A of Anamalai Hills Village owned by M/s.Periyakarumalai Tea Produce Company Ltd., they found 13 logs felled from three silver oak trees; that these trees were illicitly felled by the estate authorities without prior permission of the District Forest Committee; that the accused is punishable under Section 7(1) of the Tamil Nadu Preservation of Private Forest Act, 1949 and 7 of the Tamil Nadu Hill Area (Preservation of Trees), 1955.

3.The learned counsel for the petitioner in Crl.O.P. No. 6508 of 2021 would submit that the first three accused are field forest officers who were arrested by the respondent and they had confessed to the felling of trees; that the petitioner who is arrayed as A4 is sought to be prosecuted on the basis of the confession given by A1 to A3 (field officers). Even in their confession, they did not specifically state about the involvement of the petitioner. They had only stated that they had felled the trees at the instance of the company administration. Further, the learned counsel submitted that as far as Crl.O.P. No. 20983 of 2021 is concerned, A1 was arrested and he had given a confession statement. In the confession statement, he had not named the petitioner and he had



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stated that the trees were cut at the instance of A2. Hence, the petitioner is made as accused only on the basis of the position he held and hence the complaints, cannot be sustained. The learned counsel therefore submitted that in the absence of any evidence to establish the involvement of the petitioner in both the complaints, the complaints against the petitioner may be quashed.

4.The learned Additional Public Prosecutor on the other hand, submitted that these petitions are not maintainable and the question as to whether the petitioner is involved in the alleged offences or not is a matter for trial. The learned Additional Public Prosecutor had pointed out to the counter filed by the respondent in which they have stated that the petitioner as a Chief Administrative Officer is vicariously liable for the offences committed within the territorial area of his estate.

5.This Court finds that the confession of A1 to A3 in C.C. No. 31 of 2021 and the confession of A1 in C.C. No. 30 of 2021 only states that they had felled the trees at the instance of the company's administration. In the confession in C.C. No. 30 of 2021, it is stated that the trees were felled at the instance of another accused. In such circumstances, it



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cannot be assumed that the petitioner was the person named in the confession. Prosecution against the petitioner cannot be sustained on the basis of such evidence. Further, this Court is also unable to accept the submission of the learned Additional Public Prosecutor that the petitioner is vicariously liable. The act does not provide for any vicarious liability. Thus in the absence of any acceptable evidence, this Court is of the view that the proceedings against the petitioner alone is liable to be quashed.

6. Accordingly, these Criminal Original Petitions are allowed and the proceedings in C.C. Nos. 30 & 31 of 2020 on the file of the District Munsiff cum Judicial Magistrate at Valparai is quashed as against the petitioner. Consequently, the connected miscellaneous petitions are closed.

12.06.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

1. The Deputy Director, Annamalai Tiger Reserve,
Pollachi one of the coimbatore District,



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Forest Committee Member.

2. The District Munsiff cum Judicial Magistrate,
Valparai.
3. The Additional Public Prosecutor,
High Court of Madras,
Chennai.

SUNDER MOHAN, J

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