



Crl.R.C(MD)No.127 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.03.2023

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.127 of 2017

1.Selvamani
2.Nesamani

...Petitioners/A1 & A2

Vs.

State represented by
The Forest Range Officer,
Boothapandi Forest Range,
Kanniyakumari District.
(O.R.160/999)

...Respondent

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records in Crl.A.No.86 of 2008, dated 01.07.2016 on the file of the Mahila Court (Fast Track Court), Nagercoil, confirming the judgment passed in C.C.No.159 of 2008 on the file of the Special Court (Forest Cases), Nagercoil, dated 30.05.2008 and set aside the same.

For Petitioners : Mr.R.Jegadeeswaran

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl.side)



Crl.R.C(MD)No.127 of 2017

guilty for the offences under Section 21 (d)(e)(f) of Tamil Nadu Forest Act, 1882 and Section 3 of Amendment Act 1, 1995 and sentenced them to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.7,500/- each, in default, to undergo simple imprisonment for a period of three months. Aggrieved by the same, the petitioners preferred an appeal and the same was also dismissed by the first appellate Court by confirming the conviction and sentence. Hence, the present revision.

3.The learned counsel for the petitioners would submit that even according to the case of the prosecution, the petitioners cut down 19 trees, in which, already 17 trees had been taken away from the respondent. They hidden two trees of Eetti trees and when they were taken from the hidden place and proceeded to their place, they were got hold and filed a complaint. Further the respondent failed to produce other 17 Eetti trees in order to prove their case and also to connect with the trees, which were allegedly seized from the petitioners and the whereabouts of these trees till not now. Therefore, it is clearly a put up case as against the petitioners only for statistical purpose. He further submitted that though the respondent charge sheeted that the petitioners



Crl.R.C(MD)No.127 of 2017

were carrying Eetti trees in the reserved forest area, they failed to produce any declaration or notification to identify to the effect that the scene of occurrence is the reserved forest area. They also failed to produce any material to show that the seized trees are Eetti trees. Therefore, the entire conviction and sentence cannot be sustained as against the petitioners and it is liable to be set aside.

4. Per contra, the learned Government Advocate (Crl.side) appearing for the respondent submitted that admittedly, both the petitioners were found in possession of two Eetti trees. After seizure of the Eetti trees, they recorded confession statement of the petitioners and registered the case as against the petitioners. After completion of investigation, they filed a final report. In order to prove the charge, they had examined PW1 to PW5 and marked Ex.P1 to Ex.P5 and seized the Eetti trees, which were marked as M.O.1. Therefore, both the Courts found them guilty and sentenced them under Forest Act. Hence, it does not warrant any interference by this Court and prayed for dismissal of this petition.



Crl.R.C(MD)No.127 of 2017

5. Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl.side) appearing for the respondent.

6. The petitioners are arrayed as Accused Nos.1 and 2. According to the respondent, both the petitioners/A1 & A2 were carrying two Eetti trees on their head at Poigai Reserved Forest, Aralvaimozhi Beat within the jurisdiction of Kulathuvizhai. Further, the case of the prosecution is that already they cut down 19 trees, in which, 17 trees were taken from the forest and two trees were hidden by them. When they were taken the trees and proceeded, they were got hold. Further, the respondent failed to produce any document to show that 17 trees, which were already seized, were kept in the manner known to law and they were also not compared with the present trees allegedly recovered from the petitioners. That apart, the respondent failed to produce any notification or declaration to the effect that the scene of occurrence is the reserved forest area. In order to attract the offence under Section 21 (d), (e) and (f) of Tamil Nadu Forest Act, 1882, the scene of crime should be reserved forest area. It is relevant to extract the Section 21 (d), (e) and (f) of Tamil Nadu Forest Act, which reads as



Crl.R.C(MD)No.127 of 2017

follows:-

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"21.Penalties for trespass or damage in reserved forest and acts prohibited in such forests. Any person who

" (a)

(b)

(c)

(d) *trespasses or pastures cattle, or permits cattle to trespass;*

(e) *fells, girdles, marks, lops, tops, uproots or burns any tree, or strips off the bark or leaves from, or otherwise damages, the same;*

(f) *quarries stone, burns lime or charcoal, or collects, subject to any manufacturing process, or removes any forest produce....."*

7.Admittedly, the prosecution did not produce any material documents to show that the scene of occurrence is the reserved forest area. Further, the respondent also failed to prove that the trees, which were alledgedly carried by the petitioners, are Eetti trees by any analysis and failed to examine any independent witnesses. In order to prove the charges, PW1 to PW5 were examined, who are the officials witnesses and as such the conviction and sentence imposed on the petitioners cannot be sustained and it is liable to be set aside.



Crl.R.C(MD)No.127 of 2017

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8. Accordingly, the Criminal Revision Case stands allowed.

23.03.2023

NCC : Yes/No
Index : Yes / No
vsd

To

1. Mahila Court (Fast Track Court),
Nagercoil.
2. The Special Court (Forest Cases),
Nagercoil.
3. The Forest Range Officer,
Boothapandi Forest Range,
Kanniyakumari District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.R.C(MD)No.127 of 2017

G.K.ILANTHIRAIYAN, J.

vsd

Crl.R.C(MD)No.127 of 2017

23.03.2023