

IN THE HIGH COURT AT CALCUTTA

Criminal Revisional Jurisdiction

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 4310 of 2022

Shambhu Das @ Sambhu Das

Vs

The State of West Bengal & Anr.

For the Petitioner : Mr. Siddhartha Sarkar,
Mr. Amit Ranjan Pati.

For the State : Mr. Debasish Roy, Id. PP
Mr. Arijit Ganguly,
Mr. Koushik Kundu.

Hearing concluded on : 06.11.2024

Judgment on : 08.11.2024

Shampa Dutt (Paul), J.:

1. The present revisional application has been preferred by the petitioner praying for quashing of the entire proceeding of Gurguripal P.S. Case No. 136 of 2022 dated 07.08.2022 corresponding to G.R. Case No. 2447 of 2022 under Sections 379 and 411 of the Indian Penal Code, now pending before the learned Chief Judicial Magistrate, Paschim Medinipur.
2. The petitioner's case is that the petitioner is an employee of Directorate of Forest, Government of West Bengal. At present the petitioner is posted under Gurguripal P.S. Forest Office as Night Guard. The petitioner by an agreement dated 16.08.2020 entered into an agreement with one Indrani Das and Tarak Das for cultivating and management over a land situated at Mouza-Strigunj, J.L. No. 175, under P.S. Kotwali, R.S. Dag No. 274 L.R. Dag No. 284 and L.R. Dag No. 265 corresponding to Khatian No. 27. In view of the said agreement the petitioner was also permitted to use the said land for living and planting. The said Indrani Das and Tarak Das are the Sebait of the raiyat of the aforesaid land namely "Sree Sree Laxmi-Narayan Jew Thakur".
3. After taking permission from the Sebait **the petitioner felled the trees (12) standing on the said land.** That on good faith the petitioner did not verify whether the Sebait has obtained any permission from the appropriate Government authority or not.
4. On 12.07.2022, the de facto complainant lodged a written complaint with the Officer-in-Charge of Gurguripal P.S. to that effect that the de facto complainant being the Officer of the Beat Office, Gopegarh Beat got an information from the villagers of Srtiganj that the petitioner has cut down

12 number of trees (Neem-10, Minjuri-1, **Mehagini-1**) without any permission and/or authority. After receiving the said information the de facto complainant rushed to the spot and seized those products. Thereafter the petitioner was served with a notice and confessed his guilt.

5. On the basis of the said written complaint, a criminal case being Gurguripal P.S. Case No. 136 of 2022 dated 07.08.2022 corresponding to G.R. No. 2447 of 2022 under Sections 379 and 411 of the Indian Penal Code has been initiated against the petitioner.
6. It is submitted by the petitioner that the police authority initiated the aforesaid criminal case against the petitioner without following the law laid down in the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006 and has further submitted that the offences alleged under the Indian Penal Code in this case is not applicable against the petitioner.
7. Learned counsel for the State has placed the case diary wherein it appears that the charge-sheet in the present case has been submitted for the offence punishable under Section 379/411 of the IPC.
8. Admittedly, the petitioner has cut down the trees (12 in number). **One of which is a scheduled tree under the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006, without any valid permission.**
9. **One of the trees cut down is Mehagini and at number nine in the schedule. Admittedly, no permission from the appropriate authority has been obtained by the petitioner following the provisions as per**

Rule 5 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Rules, 2006.

10. It is the case of the petitioner that he cannot be charged under the Indian Penal Code. It is further submitted that there is no allegation and or charge for violation of any provisions of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act of 2006 and its rules.
11. Considering the offence alleged in the present case and the relevant provisions of the Special Act and its rules relied upon, this Court finds that there exists a prima facie case against the petitioner under the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006 and its rules and, as such, this Court is not inclined to interfere with the proceedings before the Trial Court.
12. But considering the submissions made by the learned counsel for the petitioner as to the offences with which he has been charged and its applicability, the petitioner is at liberty to pray for appropriate relief before the appropriate Court, which shall be considered in accordance with law.
13. Learned Magistrate is also directed to take into account the prima facie violation of the provisions by the petitioner in respect of the special Act referred above and its rules at the time of framing of charge/plea, and decide the same in accordance with law, there being a prima facie case under Section 11 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006 and also prima facie violation of its rules of 2006.
14. **The present criminal revision being CRR 4310 of 2022 is accordingly disposed of.**

- 15.** Pending applications stand disposed of.
- 16.** Interim order, if any, stands vacated.
- 17.** Copy of this judgment be sent to the learned Trial Court for necessary compliance.
- 18.** Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties expeditiously after due compliance.

(Shampa Dutt (Paul), J.)