



CrI.O.P.No.23378 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.23378 of 2024
& CrI.M.P.No.13252 of 2024

1. Stany Thekaekra.
2. Ayappan,
3. K.T.Supramani,
4. Sivaraj.

... Petitioners/Accused

/versus/

State of Tamil Nadu,
Rep. by FRO Gudalur Range,
In OR No.13 of 2019.

... Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C.,
pleased to call for the records in TNF/OR/13/2019 dated 04.03.2019 on the file
of the Hon'ble Judicial Magistrate, Gudalur and to quash the same.

For Petitioners : Mr.Henri Tiphange,
for Ms.Tani Srivatsan
For Respondent : Mr.S.Udaya Kumar,
Government Advocate (CrI.Side)

ORDER

The petitioners are accused in a complaint registered by the Forest
Department in TNF/OR/13/2019 for their act of involving in cutting Bamboo
trees in the Reserved Forest.



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2. The Learned Counsel appearing for the petitioners submits that the petitioners are forest dwellers and their right to collect forest produce for their livelihood is protected under the Forest Rights Act 2006 and he further submits that since Bamboo is not scheduled timber, any violation of Forest Act attracts punishment under Section 28-A(2) of Tamil Nadu Forest Act 1882. The punishment prescribed is one month or with fine which may extend to two hundred rupees, or with both.

3. The Learned Counsel for the petitioner submits that being a non-scheduled timber and the value only Rs.2000/-, the petitioners cannot be prosecuted for possessing timber admittedly to construct house for their dwelling. Further, the Learned Counsel submits that in any event having failed to file final report in time and make the Court to take cognizance of the offences within the time prescribed under Section 468 of Cr.P.C., the F.I.R against these petitioners cannot sustain due to limitation.

4. The Learned Government Advocate (CrI.Side) appearing for the respondent has circulated the CD file and submitted that the final report in this case was filed as early as 04.03.2019. However, the same was returned to be



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presented along with the material object namely, Bamboos. As far as the Rule by the Government of Tamil Nadu, falling/cutting of any tree in the notified reserved forest without prior permission of the District Collector is an offence and therefore, the complaint cannot be quashed.

5. The records produced by the Government Advocate (CrI.Side) indicates that though final report presented before the concern Magistrate on 04.03.2019, their complaint not been taken on file and the endorsement of the Learned Judicial Magistrate, Gudalur made on the copy application reveals that final report returned since along with property not produced to the Court. The material placed before this Court reveals that Bamboo is not scheduled Timber. Forest dwellers are protected from collecting forest produce (except the scheduled timber) for their livelihood. Further, the *corpus delicti* in this case namely, bamboos not been produced before the concern Court, even after lapse of 5 years as a result final report not taken on file since the punishment prescribed for the alleged offence is only one month or fine of Rs.200/-, the period of limitation prescribed under Section 468 of Cr.P.C comes into play.



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6. Hence, this Criminal Original Petition is allowed on the ground of limitation prescribed under Section 468 of Cr.P.C. Accordingly, the complaint in TNF/OR/13/2019, dated 04.03.2019 is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

25.10.2024

Index : Yes/No
Neutral Citation : Yes/No
bsm

To,
1. The Judicial Magistrate, Gudalur
2. The Forest Ranger Officer, Gudalur Range.



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Dr.G.JAYACHANDRAN, J.

bsm

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