



Crl.O.P.(MD)No.344 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 26.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) No.344 of 2022
and
Crl.M.P.(MD).Nos.258 & 259 of 2022

1.R.Nithishkumar

2.Badrinaraanan Choudary

3.J.R.Venkatesh

4.S.Pragadeeswaran

... Petitioners

Vs.

1.The Forest Range Officer,
Cumbum East Forest Range,
Cumbum,
Theni District.
(In H.P.O.R.No.1/2014)

2.The Principal Chief Conservator of Forests,
Panagal Maaligai, Saidapet,
Chennai-14.

...Respondents

(Respondent No.2 *suo motu* impleaded as per the order of this Court dated 10.01.2022 in Crl.O.P.(MD).No.344 of 2022 and Crl.M.P.(MD).Nos.258 and 259 of 2022)

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the impugned complaint in S.T.C.No.325 of 2021 on the file of the learned Judicial Magistrate, Uthamapalayam, Theni District in connection with the case in



Crl.O.P.(MD)No.344 of 2022

H.P.O.R.No.1 of 2014 on the file of the respondent Police and quash the same as illegal insofar as the petitioners are concerned.

For Petitioners : Mr.D.Balamurugapandi

For Respondents : Mr.S.Ravi,
Additional Public Prosecutor

ORDER

This petition has been filed challenging the proceedings pending in S.T.C.No.325 of 2021 (H.P.O.R.No.1/2014) on the file of the learned Judicial Magistrate, Uthamapalayam, Theni District.

2. The first respondent has filed a private complaint against the petitioners on the ground that permission was granted to cut 290 trees and whereas, the petitioners had cut nearly 2788 trees and thereby, they have committed the offences under Sections 3(1)(a) and 7 of the Tamil Nadu Hill Areas (Preservation of Trees) Act, 1955 (hereinafter referred to as 'the Act').

3. Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the respondents.

4. The main ground that was alleged by the learned counsel appearing for the petitioners is that the petitioners had cut the trees only



in line with the permission granted to them. That apart, the private complaint that has been instituted is not in accordance with the mandate prescribed under Section 11 of the Act, since the private complaint has been filed by the Forest Range Officer and whereas, the Act contemplates that the complaint must be in writing by the Committee. The learned counsel appearing for the petitioners in order to substantiate his submission relied upon the judgment of this Court in the case of ***Ponnambalam and Others Vs. Range Taluk, Chinnamanur Forest Office, Chinnamanur, Theni District*** reported in ***(2007) 2 MLJ (Crl) 601***.

5. The learned Additional Public Prosecutor appearing for the respondents submitted that the permission was granted only for cutting down 290 trees and whereas and the petitioners have cut down nearly 2788 trees, which was clearly an offence under the Act. The learned Additional Public Prosecutor further submitted that in the instant case, the Committee had authorized the Forest Range Officer to file a private complaint and therefore, there is absolutely no violation of Section 11 of the Act.



6. Section 11 of the Act states that no Court should take cognizance of any offence punishable under Section 7 of the Act except on the complaint in writing of the Committee. The term 'Committee' has been defined under Section 2(a) of the Act. The Committee means any Committee constituted under Section 2-(A) and having jurisdiction.

7. In the case in hand, even in the private complaint, it has been very specifically stated that it is the Committee, who took a decision to file a private complaint and Authorization was given to the Forest Range Officer to file a complaint. Hence, the private complaint filed by the respondent is in line with the requirements under Section 11 of the Act.

8. The judgment that was relied upon by the learned counsel appearing for the petitioner will not apply to the facts of the present case. In that case, the District Forest Officer was given permission only by the Chairman-cum-District Collector. This Court held that the Chairman-cum-District Collector by himself is not a Committee as per Section 2(a) of the Act and therefore, such authorization will not be in line with the requirements under Section 11 of the Act. Accordingly, this Court found that the private complaint was not filed as per the requirement under Section 11 of the Act. In the instant case, it is the Committee which had



given authorization to file a private complaint and authorization was given to the Forest Range Officer.

9. This Court finds that the other grounds that have been raised are all factual in nature, which cannot be gone into in a quash petition.

10. The learned counsel appearing for the petitioners submitted that the presence of the petitioners can be dispensed with and that they will be represented through a counsel.

11. Taking into consideration the above submissions made by the learned counsel appearing for the petitioners, the presence of the petitioners before the Court below is dispensed with and they shall be represented through a counsel. The petitioners shall be present before the Court below as and when required and at the time of questioning under Section 313 (1) (b) of Cr.P.C. and at the time of passing of the final judgment and they shall be represented by a counsel, who shall cross examine the witnesses on the same day, they are examined in Chief. The petitioners will not question the identity of any of the witness in this case.



Crl.O.P.(MD)No.344 of 2022

12. In the result, this Criminal Original Petition is disposed of with a direction to the learned Judicial Magistrate, Uthamapalayam, Theni District to dispose of S.T.C.No.325 of 2021 (H.P.O.R.No.1/2014) within a period of four (4) months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petitions are closed.

26.11.2024

Index : Yes/No

Internet : Yes/No

TSG

To

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Uthamapalayam, Theni District.

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Cumbum,
Theni District.
(In H.P.O.R.No.1/2014)

3.The Principal Chief Conservator of Forests,
Panagal Maaligai, Saidapet,
Chennai-14.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

N.ANAND VENKATESH. J.



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Crl.O.P.(MD)No.344 of 2022

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Crl.O.P.(MD)No.344 of 2022

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