



Crl.O.P(MD).No.5963 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.08.2024

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CORAM :

THE HON'BLE MR JUSTICE D. BHARATHA CHAKRAVARTHY

Crl.O.P(MD).No.5963 of 2021 and
Crl.M.P(MD).No.3424 of 2021

Kalaivani

... Petitioner

Vs.

The Forest Officer,
Srivilliputur Forest Circle,
Srivilliputur,
Virudhunagar District.

... Respondent

PRAYER:- Criminal Original Petition filed under Section 482 Cr.P.C.,
Act 2023 to call for the records relating to SWOR.No.1 of 2020 on the
file of the Judicial Magistrate No.II, Srivilliputur and quash the same.

For Petitioner : Mr. J.Anandkumar

For respondent : Mrs. M.Aasha
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to call for the
records relating to SWOR.No.1 of 2020 on the file of the Judicial



Magistrate No.II, Srivilliputtur and quash the same.

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2. The primary contention on behalf of the learned counsel for the petitioner is that admittedly proviso to Section 36A r/w Section 36(F) of the Act, when initially even as per the reports of the respondent that the sandalwood which was grown in the farm of the petitioner got approved and the same was only being cut and stored, no offence is made out. He would further submit that even the case will be covered within the provisions of the Tamil Nadu Preservation of Private Forest Land Act, 1949, more specifically the proviso to Section 3, when the ownership of the sandalwood is vested in the petitioner and there is not even an allegation that they intended to sell anybody else other than the Government. Registering of the case at that stage was illegal and incorrect in law. As a matter of fact, the petitioner's husband, whom the respondent has suspected has also since passed away. Therefore, the petitioner is unnecessarily made to face the case when she has not committed any offence whatsoever.

3. Per contra, the learned Government Advocate (Crl. side) appearing on behalf of the respondent would submit that in this case, even though initially it is recorded that the sandalwood tree is



unauthorized attempted for sale, later on, it was found that the petitioner's husband, who was also a Forest Range Officer was instrumental in bringing the sandal wood from outside and has been illegally transporting and stocking the same. Therefore, the further investigation makes out an offence.

4. In view of the rival contentions between the parties, it is to be factually established as to whether the sandalwood which is seized is grown in the petitioner's land itself and it fell down and the same was cut and stored or whether the wood belonging to some other place was illegally transported and kept within the home of the petitioner and if so, whether the petitioner has complicity or not, it is for the respondent to complete the investigation and it is open for the petitioner to go before the respondent herself and plead that she was the wife and did not know about the affairs. Secondly, she can also raise the pleading that the tree has been uprooted from the same farmland. Depending on the outcome of the investigation complaint will be filed and if a complaint is filed and if the petitioner still has grounds, it will be open for the petitioner to raise all such contentions in an appropriate manner. Since the matter falls within the factual premises, I am not inclined to quash the SWOR.No.1 of 2020 pending on the file of the Judicial Magistrate No.II, Srivilliputtur



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at this stage.

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5. Accordingly, this Criminal Original Petition is dismissed.

Consequently, the connected Miscellaneous Petition is closed.

19.08.2024

Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order
trp

To

1. The Forest Officer,
Srivilliputur Forest Circle,
Srivilliputur,
Virudhunagar District.

2. The Judicial Magistrate No.II, Srivilliputur

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



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D. BHARATHA CHAKRAVARTHY, J.,

Trp

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