



Crl.O.P(MD).No.13237 of 2020 and 3756 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2024

CORAM :

THE HON'BLE MR JUSTICE A.A.NAKKIRAN

Crl.O.P(MD).Nos.13237 of 2020 and 3756 of 2021 and
Crl.M.P(MD).Nos.2079, 2080 of 2021 and 6072 of 2020

Crl.O.P(MD).No.13237 of 2020:

N.Srinivasan

... Petitioner

Vs.

The Forest Range Officer,
Saptur Range Office,
Saptur,
Madurai District.
(Crime No.1 of 2020)

... Respondent

PRAYER:- Petition filed under Section 482 Cr.P.C., to call for records pertaining to the charge sheet in C.C.No.47 of 2020 on the file of the District Munsif Cum Judicial Magistrate, Peraiyur and quash the same.

For Petitioner

: Mr.J.Jeyakumaran

For Respondent

: Mr.K. Sanjai Gandhi

Government Advocate (Crl. Side)

Crl.O.P(MD).No.1756 of 2021:

M.Muthu Ganesh

... Petitioner

Vs.



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The Forest Range Officer,
Saptur Range Office,
Saptur,
Madurai District.
(Crime No.1 of 2020)

... Respondent

PRAYER:- Petition filed under Section 482 Cr.P.C., to call for records pertaining to the impugned charge sheet in C.C.No.47 of 2020 on the file of the District Munsif Cum Judicial Magistrate, Peraiyur and quash the same.

For Petitioner	: Mr.Suthakaran
For Respondent	: Mr.K. Sanjai Gandhi
	Government Advocate (Crl. Side)

COMMON ORDER

These Criminal Original Petitions have been filed to call for the records pertaining to the impugned charge sheet in C.C.No.47 of 2020 on the file of the District Munsif-Cum-Judicial Magistrate, Peraiyur and quash the same.

2. The case of the prosecution is that on 06.05.2020, one Muthaiah, the tribal residing at Mekkathan Parai Village, informed the Accused No.3 viz., M.Narayanan, Forest Guard, that he found a dead elephant in Karadiyuthu Saragam, Ayyankovil beat, Saptur Forest Range,



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which comes under Srivilliputur Grizzled Squirrel Sanctuary.

Immediately, he informed the same to A2, who is the petitioner in Crl.O.P(MD).No.3756 of 2021. On information, A2 informed to A3, who is in-charge of Ayyankovil beat and he advised A4 to A9 to visit the spot on 07.05.2020. As per the instruction, they have inspected the spot and took photographs and the Accused No.4 sent those photographs to Accused No.2 through Whatsapp. Thereafter, A2 to A9 informed the same to the A1, who is the petitioner in Crl.O.P(MD).No.13237 of 2020. Subsequently, A1 directed the other accused persons to dispose of the dead elephant by pouring kerosene and petrol and to burn it fully. As per the said advice, on 08.05.2020, the accused Nos.2 to 9 went to the spot and poured kerosene and petrol on the dead elephant and burned. Thereafter, on 14.06.2020, a special team headed by Assistant Conservator of Forest, Srivilliputur went to the spot and identified the incident and all the accused persons gave a confession to him by admitting the above said allegation. The burnt particles of the elephant have been seized by the authorities. Hence, a case has been charge sheeted for the offences under Sections 2(16) (c), 9, 39(3)(c) and Section 51 of Wild Life (Protection), Act, 1972.



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3. The learned counsel appearing for the petitioner / A1 in Crl.O.P(MD).No.13237 of 2020 would submit that the petitioner / A1 is a Forest Range Officer in Saptur Range. He would further submit that without the knowledge of the petitioner, A2 to A9 have burnt the dead elephant and also there is no official communication to the petitioner regarding the death of the elephant as alleged in the report filed by the respondent. He would further submit that without even conducting proper enquiry, charges were framed against the petitioner and further, initially, the petitioner was suspended from service and thereafter, reinstated in to service.

4. The learned counsel appearing for the petitioner / A2 in Crl.O.P(MD).No.3756 of 2021 would submit that the petitioner / A2 is a Forester in Saptur in Saptur Range and he has acted only as per the instructions given by A1, who is the immediate higher official to A2. He would further submit that there is no provision in the Wild Life (Protection) Act that the Forester has to get a written permission from the higher official to destroy or take away any animals in the forest and hence, the initiation of criminal prosecution against the petitioner is un-sustainable in law.



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5. The learned counsel appearing for the petitioner in Crl.O.P(MD).No.13237 of 2020 would submit that the petitioner herein was charged for the offence under Section 2(16)(c) of the Wild Life of (Protection) Act, 1972 of Act. The above said Section reads as follows:

“2. Definitions: In this Act, unless the context otherwise requires;

16) “hunting”, with the grammatical variations and cognate expressions, includes:-

(c) injuring or destroying or taking any part of the body of any such animal or in the case of wild birds or reptiles, damaging the eggs of such birds ore reptiles, or disturbing the eggs or nests of such birds or reptiles.”

Hence, admittedly hunting does not arise as per the prosecution case. He further contended that the report dated, 14.06.2020 filed by the respondent clearly shows that no one hunted the elephant and the accused Nos.2 to 7 gave information to the petitioner in Crl.O.P(MD).No.13237 of 2020 about the dead elephant and hence, it clearly shows that the petitioners or any other accused had not hunted the elephant. He further stated that Section 9 of the Wild Life of (Protection) Act, 1972 of Act clearly speaks about the hunting of wild animals. He further stated that as per per Section 39(3) (c) of the Wild Life of (Protection) Act, 1972 attracts only to the wild animals and not the dead



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animals. Section 39(3) (c) of the Wild Life of (Protection) Act, 1972 reads as follows:

“39. Wild animals, etc., to be Government Property – (1) Every

*...
(3) No person shall without the previous permission in writing to the Chief Wild Life Warden or the authorised Officer:*

*..
(c) destroy or damage, such Government property.”*

Since it is an admitted fact that A2 to A9 have informed to A1 about the death of the elephant, the petitioners have not destroyed or damaged the wild animal. Hence, the above said provisions do not attract as far as the petitioner /A1 is concerned.

6. The learned counsel appearing for the petitioner / A2 in Crl.O.P(MD).No.3756 of 2021 would submit that the entire allegations against the accused persons are that they have destroyed the elephant's body without obtaining written consent from the higher officials. Admittedly, Departmental proceedings has been initiated against the petitioner for his delinquent act for non-obtaining consent for destroying elephant's body in the forest. He further contended that only on instructions by his immediate higher official, the accused persons have



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destroyed the elephant's body. He further stated that the buried elephant died three months before and it was in a decomposed stage and hence, in order to protect the environment and other animals only, they destroyed the body of the elephant and prays for allowing these petitions.

7. The learned counsel appearing for the petitioners further submitted that the above said offences only related to the live animals and not applicable to the dead animals and the petitioners have buried only the dead body of the elephant and hence, the offences do not attract as against the petitioners and prays for allowing these petitions.

8. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that without submitting the report to the higher officials, the accused persons have destroyed the body of the elephant and hence, the same is against the law. He further submitted that there are materials available to proceed with the case as against the petitioner herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioners have to be gone into only at the time of trial and hence, he prayed for dismissal of these petitions.



9. Heard the learned counsel appearing on either side and perused the materials available on record.

10. A perusal of the records shows that A1 has not obtained any permission or submitted any report to the higher officials with regard to the disposal of the dead elephant. Further, during the time of investigation, the other accused persons have not submitted any proper explanation in this regard. The submission made by the learned counsel for the petitioners that the alleged offences are applicable only to the live animals and not to the dead animals, is not acceptable by this Court. Further, time and again, this Court as well as the Supreme Court has cautioned the Courts about the necessary precautions to be taken while quashing the charge sheet at the initial stage. Useful reference in this regard can be had to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)***.

11. In the above circumstances, the trial Court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioners if they are subjected to due trial as sufficient opportunity would be given to the petitioners to put forth their



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defence. The petitioners cannot be let by quashing the charge framed against them as that would completely undermine the alleged acts, which is the subject matter of criminal trial pending against him.

12. For the reasons aforesaid, this Court finds no ground or scope to quash the C.C.No.47 of 2020 on the file of the District Munsif-Cum-Judicial Magistrate, Peraiyur. Accordingly, these petition, being devoid of merits, are dismissed. Consequently, connected miscellaneous petitions are closed.

13. At this juncture, the learned counsel appearing for the petitioners prayed to dispense with the personal appearance of the petitioners before the Trial Court.

14. Considering the request made by the learned counsel appearing for the petitioners, the personal appearance of the petitioners is dispensed with before the trial Court with the following conditions:-

i)The personal appearance of the petitioners is dispensed with except for their appearance for the purpose of receiving the copy of the



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proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioners is necessary, the trial court, at its wisdom, shall direct his appearance on those days.

12.06.2024

Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order
trp



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To

WEB COPY

1. The Forest Range Officer,
Saptur Range Office,
Saptur,
Madurai District.
2. The District Munsif Cum Judicial Magistrate, Peraiyur
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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A.A.NAKKIRAN, J.

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