



Crl.O.P(MD).No.14550 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.06.2024

CORAM :

THE HON'BLE MR JUSTICE A.A.NAKKIRAN

Crl.O.P(MD)No. 14550 of 2021

and

Crl.M.P(MD).Nos.7681 and 7682 of 2021

Sakthi

... Petitioner / Accused No.2

Vs.

The Forest Officer,
Sivagangai Forest Range,
Sivagangai.

... Respondent / Complainant

PRAYER:- Petition filed under Section 482 Cr.P.C., to quash the impugned charge sheet in C.C.No.228 of 2020 pending on the file of the learned Judicial Magistrate No.I, Sivagangai.

For Petitioner : Mr.G.Karuppasamy Pandian

For Respondent : Mr.K.Sanjai Gandhi

Government Advocate (Crl. Side)

ORDER

The petitioner has filed this petition seeking quash of C.C.No.228 of 2020 on the file of the learned Judicial Magistrate No.I, Sivagangai.



Crl.O.P(MD).No.14550 of 2021

2.The case of the prosecution is that the petitioner herein is A2. On secrete information, on 14.10.2019, at about 05.00 p.m, search was made by the respondent police in the house of A1 and found 80.479 Kg of Rosewood and 12 bags of ramnants of Rose wood and the same were recovered. A1 was escaped from the scene of occurrence and absconded and got anticipatory bail by this Court. After enquiry, on 17.10.2019, the respondent police arrested the petitioner and recorded his statement. On the summon was issued by the Forest Officer, A1 appeared before him on 17.10.2024 and gave a confession statement. Based on the confession statement of A1, case has been registered by the respondent police for the offences punishable under Sections 35(b) of the Tamil Nadu Forest Act, 1882. After completion of enquiry, the respondent police filed final report before the learned Judicial Magistrate-I, Sivagangai and the same was taken on file in C.C.No.228 of 2020. Aggrieved against the same, present petition has been filed by the petitioner.

3.The learned counsel appearing for the petitioner submitted that as per the prosecution case, the prohibited timber is 'Rose Wood' (Senchandanam). Per contra, in the recovery mahazar, it was mentioned as 'Red Sandal Wood' (Sivappu Sandhanam). Hence, there is



Crl.O.P(MD).No.14550 of 2021

discrepancies with regard to the name of the wood. He further submitted that rubber stamp cognizance has been taken by the learned Magistrate without applying his mind and the same is liable to be quashed. Even though the prohibited Rose woods (Senchandanam) was recovered from the house of A1, no independent witnesses were examined to prove the search and seizure. The recovery of prohibited Rose Woods have been recovered on 14.10.2019 at about 05.00 p.m. But, the confession of A1 was recorded only on 17.10.2019. It is contrary to law. Further, the charge sheet was filed against the accused under Sections 35(b) of Tamil Nadu Forest Act. But, it will not attract against the petitioner. As per Section 35 (b) of the Act, *the accused should have exported or imported or moved the prohibited timber one place to other places*. But, in this case, there was no such export or import and transportation. Accordingly, he prayed to quash the impugned charge sheet.

4.The learned Additional Public Prosecutor appearing for the respondent submitted that the botanical names of 'Rose Wood' and 'Red Sandal Wood' are one and the same i.e., *Pterocarpus Santalinus* (Tamil Name – *Sivappu Sandhanam, Senchandanam, Semmaram*) and he also produced a copy of the relevant document to that effect. Hence, there is



Crl.O.P(MD).No.14550 of 2021

no such discrepancies with regard to the names of the wood as alleged by the learned counsel for the petitioner. Further, the learned Magistrate, after finding the *prima facie of the case*, applying his mind, taken a case on cognizance. Further, the Sandal wood is a prohibited timber by the Government of Tamil Nadu. The Accused persons were transited the same without proper transit pass from the concern authority and also committed the offence under Section 35(b) of Tamil Nadu Forest Act. 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 petitioner have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.

5. 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)***.



Crl.O.P(MD).No.14550 of 2021

6. 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 petitioner if he is subjected to due trial as sufficient opportunity would be given to the petitioner to put forth his defence. The petitioner cannot be let by quashing the charge framed against him as that would completely undermine the alleged acts, which is the subject matter of criminal trial pending against him.

7. For the reasons aforesaid, this Court finds no ground or scope to quash C.C.No.228of 2020 pending on the file of the Judicial Magistrate No.I, Sivagangai. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petitions are closed.

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

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



Crl.O.P(MD).No.14550 of 2021

i)The personal appearance of the petitioner is dispensed with except for his appearance for the purpose of receiving the copy of the 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 petitioner is necessary, the trial court, at its wisdom, shall direct his appearance on those days.

04.06.2024

Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order
dss

To

- 1.The Judicial Magistrate No.I,
Sivagangai.
2. The Forest Officer,
Sivagangai Forest Range,
Sivagangai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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Crl.O.P(MD).No.14550 of 2021

A.A.NAKKIRAN, J.

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Crl.O.P(MD)No. 14550 of 2021
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