



CRL OP(MD) No.17538 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 18.12.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD)No.17538 of 2022

and

Crl.M.P.(MD)No.11852 of 2022

1.M.Balamurugan
2.M.B.Vijay Ananth

... Petitioners

Vs

The District Forest Officer,
O/o.Cumbum West Forest Range Office,
Cumbum, Theni District.

..Respondent

PRAYER : Petition – filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the complaint which is pending before the learned Judicial Magistrate, Uthamapalayam, Theni District in C.C.No.154 of 2022 and quash the proceedings as against the petitioners herein.

For Petitioner : Mr.V.S.V.Venkateshvaran
For Respondent : Mr.S.Ravi
Additional Public Prosecutor



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ORDER

This petition has been filed to quash the proceedings in C.C.No. 154 of 2022 pending on the file of the learned Judicial Magistrate, Uthamapalayam, Theni District.

2.The case of the prosecution is that on 09.06.2024, A1 to A6 were indulged in hunting a Sambar Deer. Thereafter, it was cut into several pieces for consumption. There are totally 8 accused persons in this case and the petitioners have been arrayed as A7 and A8.

3.Heard the learned counsel appearing on either side and perused the materials placed on record.

4.This Court carefully went through the complaint filed by the respondent. In the entire complaint, the only material that is available against the petitioners is the so called confession that was given by the co-accused to the Forest Officer. They have stated that A7 had called A6 to his property and A1 and A8 had loaded a Sambar Deer, which was hunted and it was taken to the property belonging to A7. Insofar as A7



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and A8 are concerned, their involvement came to light only subsequently, based on the confession of the co-accused. The confession of A7 and A8 was also not recorded in this case, since they obtained anticipatory bail.

5. In view of the above, the only issue that arises for consideration is as to whether the petitioners can be made to suffer the ordeal of trial only based on the extra judicial confession of the co-accused made to the Forest Officer.

6. Under Section 50(8) of the Wildlife (Protection) Act, when the confession is made to the concerned authority/authorized officer, it is treated as judicial confession. However, the confession made to the Forest Officer, at the best can only be treated as extra judicial confession. In order to act upon an extra judicial confession, there must be some material corroborating the same. This is in view of the fact that extra judicial confession *per se* is a weak piece of evidence and no conviction can be made based only on the extra judicial confession. The law on this issue is too well settled.



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7. In the case on hand, except the extra judicial confession, there is no scrap of material available against the petitioners (A7 and A8) in terms of any recovery made from their property. In view of the same, even if the petitioners undergo trial, they will be acquitted in this case. Hence, this Court has to necessarily exercise its jurisdiction under Section 482 of Cr.P.C.

8. In the result, the proceedings in C.C.No.154 of 2022 pending on the file of the learned Judicial Magistrate, Uthamapalayam, Theni District is quashed insofar as the petitioners (A7 & A8) are concerned and this Criminal Original Petition is allowed. There shall be a direction to the learned Judicial Magistrate, Uthamapalayam, Theni District to dispose of C.C.No.154 of 2022 within a period of four months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

18.12.2024

Index : Yes/No
Internet: Yes/No
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To

1.The Judicial Magistrate, Uthamapalayam, Theni District

2.The District Forest Officer,
O/o.Cumbum West Forest Range Office,
Cumbum, Theni District.

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



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N.ANAND VENKATESH,J

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