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Crl.R.C.No.462 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.No.462 of 2024

C.Somasundaram

.. **Petitioner**

Vs.

The State of Tamil Nadu
Rep.by the Forest Range Officer
Vanasaraham
Mannargudi Forest Range
Tiruvarur District.

.. **Respondent**

Prayer: Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C., against the Judgment and sentence dated 21.09.2023 in C.A.No.8 of 2021 on the file of the Principal District & Sessions Judge, Thiruvarur, confirming the Judgment and sentence dated 16.02.2021 in C.C.No.103 of 2017 on the file of the Judicial Magistrate No.II, Mannargudi.

For the Petitioner : Mr.K.Selvaraj

For the Respondent : Mr.J.Subbiah
Government Advocate (Crl.Side)



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ORDER

This Criminal Revision Case has been filed challenging the Judgment of the learned Principal District and Sessions Judge, Thiruvarur dated 21.09.2023 made in C.A.No.8 of 2021. By the said Judgment, the Appellate Court confirmed the conviction and sentence imposed by the Judicial Magistrate No.II, Mannargudi, in C.C.No.103 of 2017 dated 16.02.2021. The petitioner / accused was found guilty of an offense punishable under Section 28 A of the Tamil Nadu Forest Act, 1881, and was sentenced to undergo two years simple imprisonment and to pay a fine of Rs.7,000/-; in default to undergo one month simple imprisonment.

2. Even though the offense is punishable with a minimum imprisonment of two years, even after finding that the accused Nos.2 and 3 are guilty, erroneously, the Trial Court had sentenced them to undergo only one week simple imprisonment and imposed a fine of Rs.1,000/-. It is seen that the Judgment was of the year 2021 and no appeal was preferred on behalf of the prosecution. It is also further stated that the accused also underwent the sentence



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and did not file any appeal. Under the said circumstances, the 1st accused is before this Court.

3. The case of the prosecution is that on 18.09.2014 at about 8.00 pm, a team of officials under P.W.1, upon receipt of an information about the theft of teak tree, went for inspection nearby Bamini River, at No.1989, Teak Garden in the left bank of Santhaparichan canal. They found that two teak trees were cut down. Upon receipt of further information that it is only the accused, who had done the same, the 2nd accused was arrested. Thereafter, it was found that seven pieces of the tree, which was cut was placed near a temple pond located next to the house of the 1st accused and two pieces in the canal. The 2nd accused voluntarily confessed about the crime. The teak woods were recovered under Form – H and forwarded in Form – 95. STOR No.18 of 2014 was registered. After completion of investigation, the final report was filed. The case in the nature of private complaint was taken on file as C.C.No.103 of 2017.

4. Upon issue of summons and appearance, copies were furnished and the



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accused pleaded not guilty of the allegations. In order to bring home the charges, P.Ws.1 to 6 were examined on behalf of the prosecution and documents in Exs.P1 to 6 were marked. Upon being questioned about the incriminating evidence on record, the accused denied the same. Thereafter, on behalf of the defense, no evidence was let in. The Trial Court considered the case of the prosecution and that of the accused and found all the three accused guilty of the offense. While granting lessor punishment (though erroneously) to A2 and A3, because the teak wood logs were found at the place of the present accused, convicted the petitioner and imposed the punishment as above. Aggrieved by which, the petitioner filed an appeal in C.A.No.8 of 2021, which was also dismissed by the Appellate Court.

5. *Mr.K.Selvaraj*, the learned counsel appearing on behalf of the petitioner would submit that except the confession of the co-accused, pursuant to which the pieces of the teak wood tree was recovered from the temple pond, near the house of the 1st accused, there is no other piece of evidence is available to connect the accused with the offense. In any event, the learned counsel would



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submit that the 1st accused is now aged 65 years and he was never involved in any offense whatsoever much less and the forest offense. Alternatively, he would submit that this Court should consider releasing the petitioner on probation.

6. *Per contra*, the learned Government Advocate (Crl. Side) would submit that the prosecution has proved the charges beyond any reasonable doubt. The teak woods recovered were all duly forwarded under Form – H and the place was also marked. The concerned officials who conducted inspection were all examined and they deposed about the arrest and seizure before the Trial Court. The recovery of the wood itself would prove as a very material evidence as against the accused.

7. I have considered the issue.

8. Though an argument with reference to adequacy of evidence is advanced by the learned counsel for the petitioner, it can be seen that we are in the revisionary jurisdiction and both the Courts below, after appreciating the evidences have found that the evidence of the prosecution is adequate to prove



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the offense. No clinching ground was found to interfere in a revisionary jurisdiction. However, I take into account the following,

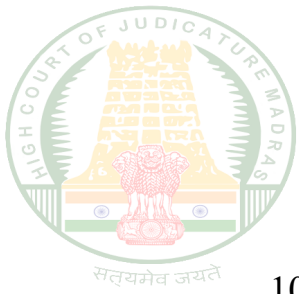
(i) The accused is aged 65 years as on date. He was the first offender and was not involved in any offense prior to the same and subsequent to the registration of the case. In connection with the present case, the petitioner had already underwent incarceration for a period of 10 days.

(ii) The teak wood was also recovered.

(iii) The nature of offense was also taken into account.

9. For all the above reasons, I am of the opinion that instead of proceeding to impose the sentence on the accused, in exercise of powers under Section 4 r/w Section 11 of the Probation of Offenders Act, 1958, this is a fit case for releasing the petitioner on probation. As per the dictum of the Hon'ble Supreme Court of India in ***Chellammal and Another Vs. State***¹, the report of the Probationary Officer was also called for and the report has been produced. It can be seen that the accused is having a permanent residence. Therefore, i am of the view that the petitioner shall be released on probation.

¹ (2025) INSC 540



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10. In view thereof, this Criminal Revision Case is partly allowed on the following terms,

(i) The conviction of the petitioner, for the offense punishable under Section 28 A of the Tamil Nadu Forest Act, 1882 by the Judgment of the learned Judicial Magistrate No.II, Mannargudi, dated 16.02.2021 and the Judgment of the learned Principal District and Sessions Judge, Thiruvarur, in C.A.No.8 of 2021 dated 21.09.2023 shall stand confirmed;

(ii) However, without imposing the sentence, the petitioner is released on probation, with the following condition,

(a) The petitioner shall execute a bond, promising good conduct for a period of one year;

(b) It is made clear that in violation of the above said condition, the jurisdictional police is at liberty to produce the petitioner before the Trial Court to take the sentence.

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Neutral Citation : Yes/No

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D.BHARATHA CHAKRAVARTHY, J.

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To

1. The Principal District & Sessions Judge, Thiruvarur.

2. The Judicial Magistrate No.II, Mannargudi.

3. The Public Prosecutor
High Court of Madras.

4. The Forest Range Officer
Vanasaraham
Mannargudi Forest Range
Tiruvarur District.

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