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Crl.O.P.No.11337 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.11337 of 2025
and Crl.M.P.No.7539 of 2025

Arumugadurai

... Petitioner

Vs.

The State rep. by its The Forest range officer
Tamil Nadu Forest Department
Velacherry
Chennai 600 032

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., /528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in C.C.No.1417 of 2023, now pending before the IX MM Court at Saidapet, on the file of the respondent, the Forest Range Officer, Tamil Nadu Forest Department, Velacherry, Chennai herein and quash the same.

For Petitioner : Mr.M.Muthupandi

For Respondents

For R1 : Mr.A.Gopinath
Government Advocate (Crl. Side)



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ORDER

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2.The petitioner is an accused in the case lodged by the respondent in WLOP No.24 of 2022, for the offences U/s.39 (1/(a)(b)(c)(d), 39(3)(a)(b), 44, 48A, 48b(ii), 49A, 49B, 50 R/w 51 of Wild Life Protection Act, 1972, alleging that on 31.12.2022 at about 6.30 a.m. when the Assistant Wildlife Protection Officer and their team conducted a raid at the petitioner's residence, they have seized Indian Pangolin scales weighing 1100 grams from the possession of the petitioner, which fall under Schedule I, Part A of the Wildlife (Protection) Act, 1972. Thereafter, the petitioner was arrested and remanded to judicial custody and registered a case.

3.Learned Counsel appearing for the petitioner would submit that the respondent failed to follow any of the procedure as contemplated under Wildlife (Protection) Act, 1972. In fact they have mentioned that they have seized 1100 kilograms of Indian Pangolin scales, But in reality they have



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seized only 1100 grams of Indian Pangolin scales.

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4.The learned Government Advocate (Crl. Side) would submit that these grounds can be considered only before the trial Court during the trial by cross examination. Any violation U/s.55 of the Wildlife Act, it can be agitated only before the trial Court by cross examination.

5.Heard the learned Counsel appearing on either side and perused the materials placed on record.

6.The Hon'ble Supreme Court of India in the judgment reported in **2019 (4) SCC 351** in the case of **Devendra Prasad Singh Vs. State of Bihar & Anr., (Crl.A.No.579 of 2019 dated 02.04.2019)** while dealing with the petition to quash the entire criminal proceedings held that the High Courts have no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and therefore, there was no *prima facie* case made out as against the accused. It could be done only by the trial Court while deciding the issues on the merits or/and

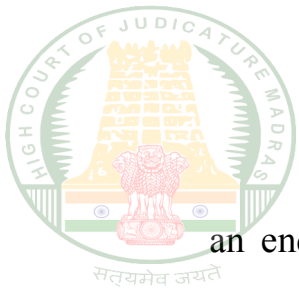


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by the Appellate Court while deciding the appeal arising out of the final order that the charge sheet has been laid on the basis of the inconsistency statement under Section 161 of Cr.P.C./180 of the Bharatiya Nagarik Suraksha Sanhita, 2023. (*any one*)

7.Further, the Hon'ble Supreme Court of India in the judgment reported in **2019 (10) SCC 686** in the case of ***Central Bureau of Investigation Vs. Arvind Khanna, (Crl.A.No.1572 of 2019*** dated 17.10.2019) held that the High Courts cannot record the findings on the disputed facts. The defence of the accused is to be tested after appreciation of evidence by the trial Court during the trial. Therefore, this Court has no power to consider the disputed facts under Section 482 of Cr.P.C./528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.(*any one*)

8.The Hon'ble Supreme Court of India in another judgment dated **02.12.2019** passed in ***Crl.A.No.1817 of 2019*** in the case of ***M.Jayanthi Vs. K.R.Meenakshi & anr,*** held that while considering the petition for quashment of complaint or charge sheet, the Court should not embark upon



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an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. Further, the Court can also see whether the preconditions requisite for taking cognizance have been complied with or not and whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged. Whether the accused will be able to prove the allegations in a manner known to law would arise only at a later stage i.e., during trial.

9. Further this Court cannot observe at this stage whether the initiation of criminal proceeding itself is malicious. Whether the criminal proceeding is malicious or not, is not required to be considered at this state. The same is required to be considered at the conclusion of the trial. Therefore, the ground raised by the petitioner to quash the charge sheet cannot be entertained to quash the entire proceedings.

10. In view of the above discussion, this Court is not inclined to quash



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the proceedings in C.C.No.1417 of 2023, on the file of the IX Metropolitan Magistrate Court at Saidapet. The petitioner is at liberty to raise all the grounds before the trial Court. The trial Court is directed to complete the trial within a period of six (6)months from the date of receipt of copy of this Order.

11.Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

17.04.2025

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Index : Yes/No

Neutral citation : Yes/No

To

1. IX MM Court
Saidapet

2.The Forest range officer
Tamil Nadu Forest Department
Velacherry
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3.The Public Prosecutor
Madras High Court
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