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Crl.O.P.No.18186 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.18186 of 2023
& Crl.M.P.No.12061 of 2023

Arun Prasanna, M/43,
Son of M Ganesan
Founder PFCI,
8/22, Ragavayya Road,
T Nagar, Chennai - 600 017.

... Petitioner/Petitioner in
Crl.M.P.No.34267 of 2023/Defacto complainant
/versus/

1. State Represented by its
Inspector of Police,
C2 Race Course (Crime) Police Station,
Coimbatore. (Crime No. 308 of 2023)

...1st Respondent/Respondent
in Crl.M.P.No. 34267 of 2023/Complainant

2. K.M.Sanjiv, M
Son of. Balagopal Representing The Great Bombay Circus
Last known to have had place of business at Coimbatore, VOC park,
T.T.Colony, Gopalapuram,
Coimbatore – TN 641 018.

... 2nd Respondent/
Petitioner in Crl.M.P. No. 33683 of 2023/
2nd Respondent in Crl. M.P. No. 34267 of 2023/Accused

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C.,
pleased to call for the records relating to the order dated 03.08.2023 in
Crl.M.P.No.34267 of 2023 of the Learned Judicial Magistrate No.III,
Coimbatore, set aside the same and consequently direct the 1st Respondent
Police to forthwith seize all unregistered and illegally held animals/birds as well



Crl.O.P.No.18186 of 2023

as those that are victims of cruelty by the 2nd Respondent's Circus in accordance with law.

For Petitioner : Mr.P.V.Balasubramanian, Senior Counsel,
for Aswini Vaidialingam

For R1 : Mr.A.Gokulakrishnan
Additional Public Prosecutor.

For R2 : Mr.P.Giridharan

ORDER

This petition has been filed to call for the records relating to the order dated 03.08.2023 in Crl.M.P. No. 34267 of 2023 passed by the learned Judicial Magistrate No. III, Coimbatore, to set aside the same and consequently direct the first respondent police to forthwith seize all unregistered and illegally held animals/birds, as well as those that are victims of cruelty by the second respondent's circus, in accordance with the law.

2. Based on the complaint lodged by the petitioner, a case was registered in Crime No. 308 of 2023 for offences punishable under Section 429 of the IPC and Sections 11(1)(a) and 26(a) of the Prevention of Cruelty to Animals Act, 1960, on the file of the first respondent. Pursuant to the registration of the F.I.R, two cockatoos (hereinafter referred to as 'the birds') were seized from the custody of the second respondent. However, the birds



Crl.O.P.No.18186 of 2023

were not produced before the concerned jurisdictional magistrate and were kept in the custody of the Private Animal Welfare Board, Aruvankadu, Nilgiris District. On this ground, the second respondent filed a petition under Section 451 of the Cr.P.C., seeking interim custody of the birds. The Judicial Magistrate No.III, Coimbatore, allowed the application and directed the first respondent to hand over the birds on certain conditions.

3. Aggrieved by the same, the petitioner filed the present petition. This Court, *vide* order dated 08.08.2023, passed an interim order directing that both birds be handed over to the custody of Worldwide Veterinary Service (WVS) situated at Aruvankadu, Nilgiris District. Accordingly, both birds were handed over. Subsequently, one of the birds died due to illness, and only one bird remains alive.

4. Mr.A.Gokulakrishnan, Learned Additional Public Prosecutor for the 1st respondent submits that he investigation is still pending in Crime No.308 of 2023 on the file of the 1st respondent police.

5. Mr.P.V.Balasubramanian, learned Senior Counsel appearing for



Crl.O.P.No.18186 of 2023

the petitioner submitted that normally such birds live with their pair.

Unfortunately, one of the pair died due to illness, and as such, he requested that the bird be brought to the Arignar Anna Zoological Park, Vandalur Zoo, Chennai, so that it may have a companion.

6. In the light of the above, the order passed by the Learned Judicial Magistrate No.III, Coimbatore in Crl.M.P.No.34267 of 2023 cannot be sustain and it is liable to be quashed.

7. Accordingly, this Criminal Original Petition is allowed. The 1st respondent is directed to inspect the Bird which is in the custody of Worldwide Veterinary Service (WVS), Aruvankadu, Nilgiris District, along with the local jurisdictional veterinary Assistance and take appropriate steps to transfer the said bird to the Arignar Anna Zoological Park, Vandalur Zoo, Chennai. Consequently, connected miscellaneous petition is closed.

05.02.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

To,
1. The Inspector of Police,
C2 Race Course (Crime) Police Station,



Crl.O.P.No.18186 of 2023

2. The Public Prosecutor, High Court, Madras.



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Crl.O.P.No.18186 of 2023

G.K.ILANTHIRAIYAN, J.

bsm

Crl.O.P.No.18186 of 2023

05.02.2025