



CrL.R.C.(MD)No.675 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.08.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CrL.R.C.(MD)No.675 of 2025

S.Venkatishwaran

... Petitioner

-VS-

The State of Tamil Nadu represented by,
Wild Life Range,
Regional Forest Officer,
K.Pudur Bit,
Madurai Division.
(W.L.O.R.No.5 of 2023)

... Respondent

PRAYER : Criminal Revision Case is filed under Section 357(C) of BNSS, 2023 r/w. 438 r/w. 442 of BNSS, 2023, to call for the entire records relating to the impugned order dated 03.07.2024 made in CrL.M.P.No.2247 of 2024 on the file of the learned Judicial Magistrate No.VI, Madurai and to set aside the same and consequently, to return the ivory shield to the petitioner forthwith.

For Petitioner
For Respondent

: Mr.S.Jeyakarthish
: Mr.S.Ravi,
Additional Public Prosecutor

ORDER

Challenging the order passed in CrL.M.P.No.2247 of 2024 dated 03.07.2024, on the file of the learned Judicial Magistrate No.VI, Madurai, this Criminal Revision Case is filed.



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2.The petitioner herein is the petitioner accused before the learned Trial Court. The petitioner filed an Application under Sections 457 and 451 of Cr.P.C., for returning the elephant tusk remanded in R.P.R.No.970 of 2023 to the petitioner as interim custody. The learned Judicial Magistrate No.VI, Madurai, had dismissed the same, by order dated 03.07.2024. Challenging the same, this Criminal Revision Case is filed.

3.The learned counsel appearing for the petitioner submitted that the property, which he is seeking interim custody, is nothing but a shield made of tusk mounted on wooden board, originally belongs to his grandfather, which was handed over to him by the workers of concern as early as in the year 1946. Thereafter, during 1946, the petitioner was not at all born. As the family ancestral property, the said property was inherited by the petitioner by exchange of hands through his ancestors. In such circumstances, he is entitled for the interim custody for the same and pressed for allowing the Criminal Revision Case.

4.The learned Additional Public Prosecutor appearing for the respondent categorically contended that Section 40 of Wild Life (Protection) Act, 1972, mandates that every person who is in custody, control or possession of any horn of a captive animal specified in Schedule I or Part II of Schedule II of the Wild Life (Protection) Act, 1972, ought to have

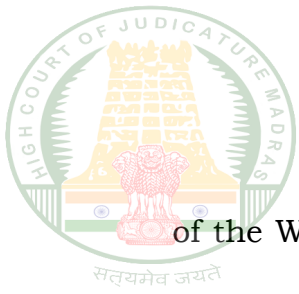


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declared the same to the Chief Wild Life Warden or the authorised officer as to the possession or custody of the articles. As far as the Wile Life (Protection) Act, 1972, is concerned, the same came into effect on 09.09.1972. Hence, on the implementation of the aforesaid Act, the petitioner ought to have declared the same in terms of Section 40 of the aforesaid Act before the competent officer and should have obtained the necessary permissions. If the said exercise had not been done, any article which is under the custody of any person would be deemed to be the property of the Government in terms of Section 39 of the Wildlife (Protection) Act 1972, and only in accordance to the said mandates, the respondent Forest Officer has seized the said property in possession of the petitioner and had remanded in R.P.R.No.970 of 2023 and the same need not to be interfered and pressed for dismissal of the Criminal Revision Case.

5.Heard the learned counsels on either side and carefully perused the materials available on record.

6.Though the learned counsel for the petitioner submitted that he is only seeking interim custody of the property involved, this Court is of the considered view that in the absence of any declaration made by the petitioner in terms of Section 40 of the Wild Life (Protection) Act, 1972, the said property being the property of Government in term of Section 39 of the



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of the Wild Life (Protection) Act, 1972, I do not find any necessity to direct the learned Judicial Magistrate to hand over the interim custody of the property of the petitioner.

7.Accordingly, the claim of the petitioner fails and this Criminal Revision Case is dismissed. No Costs.

12.08.2025

NCC :Yes/No
Index :Yes/No
Internet : Yes
Mrn

To

- 1.The Judicial Magistrate No.VI, Madurai.
- 2.The Wild Life Range,
Regional Forest Officer,
K.Pudur Bit,
Madurai Division.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

Mrn

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