

Prince Vs. State of Kerala

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Court : Kerala

Decided On : Nov-21-2013

Judge : Honourable Mr.Justice Thomas P.Joseph

Appellant : Prince

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE THOMAS P.JOSEPH THURSDAY, THE 21ST DAY OF NOVEMBER 2013 30TH KARTHIKA, 1935 Bail Appl..No. 7582 of 2013 () ----- (FOREST OFFENCE NO. 43/2013 OF DEVIKULAM RANGE, IDUKKI DISTRICT) NAME AND ADDRESS OF THE PETITIONER/1ST ACCUSED: -----

PRINCE, AGED 37 YEARS S/O. THOMAS, THENAMMAKKAL HOUSE, CHINNAKKANAL KARA CHINNAKKANAL VILLAGE, UDUMBANCHOLA TALUK. BY ADV. SRI.BIJU .C. ABRAHAM /NAME AND ADDRESS OF THE RESPONDENTS/STATE-COMPLAINANT: -----

----- 1.
STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM-682031.

2. FOREST RANGE OFFICER DEVIKULAM RANGE, MUNNAR DIVISION IDUKKI DISTRICT-685514. BY PUBLIC PROSECUTOR SRI.SREEJITH THIS

BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21.11.2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: MNS THOMAS P. JOSEPH, J.

===== Bail Application No.7582 of 2013
===== Dated this the 21st day of November, 2013

ORDER

Petitioner is the first accused, in O.R No.43 of 2013 of the Devikulam Range for the offences punishable under Secs.27(i)(e)(iii) and (iv) of Kerala Forest Act and Sec. 52 of the Kerala Forest Produce Transit Rules, 1975, apprehends arrest and has filed this application.

2. Case is that on 24.10.2013, there was an attempt to remove eucalyptus trees were cut and removed from the reserve forest in a vehicle belonging to the petitioner. The vehicle along with the logs were seized.

3. Learned counsel submits that no offence under the Forest Act as alleged is involved since even as per the prosecution, the land wherefrom eucalyptus trees were cut and removed was leased to the News Print Factory where the said company has grown the eucalyptus trees. It is also submitted that eucalyptus trees in the said land are not B.A No. 7582 of 2013 forest produce as understood in the Forest Act. Reliance is placed on the decision in Tomy V. State of Kerala (2011 (3) KLT682.

3. The learned Public Prosecutor has submitted that there is a notification as per which the land in question forms part of the reserve forest. It is also submitted that the decision in Tomy V. State of Kerala (supra) is not concerning the reserve forest and concerned the application of the Kerala Preservations of Trees Act.

5. At this stage, I need not go into the contention whether the land in question is reserve forest or not. It is revealed that the petitioner is implicated for the reason of his being owner of the vehicle in which the trees were attempted to be removed. The vehicle and logs are seized. In the circumstances I am not inclined to think that custodial interrogation of the petitioner is not required. Resultantly, application

is disposed of as under:

1. The petitioner shall surrender before the officer investigating O.R No. 43 of 2013 of Devikulam Range on 29.11.2013 at 10:00 a.m. for interrogation. B.A No. 7582 of 2013 3 2) In case interrogation is not completed that day, it is open to the investigating officer to direct presence of the petitioner before him on other date/dates and time which the petitioners shall comply. 3) After interrogation, in case arrest of the petitioner is recorded in O.R No. 43 of 2013 of Devikulam Range, he shall be produced before the jurisdictional magistrate the same day. 3) On such production the petitioner shall be released on bail if not required to be detained otherwise on his executing bond for Rs.25,000/- (Rupees Twenty five thousand only) with two sureties for the like sum each to the satisfaction of the learned magistrate and subject to the following conditions:- a) Petitioner shall report to the officer investigating O.R No. 43 of 2013 of Devikulam Range on every alternate Saturdays between 10:00 a.m. and 12:00 p.m. for a period of two months or until filing of the final report, whichever is earlier. b) Petitioner shall report to the officer investigating the case as and when required for interrogation. c) Petitioner shall not get involved in any offence during the period of bail. d) In case of violation of any of the conditions, bail B.A No. 7582 of 2013 4 granted hereby is liable to be cancelled by moving application before the learned magistrate as held in P.K. Shaji V. State of Kerala (AIR2006 Supreme Court 100) Sd/- THOMAS P.JOSEPH, JUDGE //true copy// P.A. to Judge Smv

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