

Ansar.K. Vs. State of Kerala

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Court : Kerala

Decided On : Jan-28-2014

Judge : Honourable Mr. Justice P.D.Rajan

Appellant : Ansar.K.

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE P.D.RAJAN TUESDAY, THE 28TH DAY OF JANUARY 2014 8TH MAGHA, 1935 CrI.MC.No. 718 of 2012 () ----- CC.NO. 410/2010 OF JUDICIAL FIRST CLASS MAGISTRATE COURT ALATHUR CRIME NO. 12/2006 OF ALATHUR FOREST RANGE OFFICE ,PALAKKAD DISTRICT ----- PETITIONER/3RD ACCUSED: ----- ANSAR.K., S/O. KASIM, AGED 31 YEARS, KARAKKOTTU KALAM, THOLANUR, THOLANUR P.O., ALATHUR, PALAKKAD. BY ADVS.SRI.SAJAN VARGHEESE K. SRI.LIJU. M.P RESPONDENT/COMPLAINANT: ----- STATE OF KERALA, REP. BY FOREST RANGE OFFICER, ALATHUR RANGE OFFICE, PALAKKAD, REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. PIN-682 031 BY SPL.GOVERNMENT PLEADER (FOREST) SRI.M.P.MADHAVANKUTTY THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 28-01-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: sts CRMC.NO.718/2012 APPENDIX PETITIONER(S)

ANNEXURES: ANNEXURE A : CERTIFIED COPY OF THE CHARGE SHEET IN
OR NO.12/06 OF ALATHUR FOREST RANGE OFFICE. ANNEXURE B :
CERTIFIED COPY OF THE

JUDGMENT

DTD.30.8.2010 PASSED IN CC NO.410/06 ON THE FILE OF JUDICIAL FIRST
CLASS MAGISTRATE'S COURT, ALATHUR. RESPONDENT'S ANNEXURES:
NIL /TRUE COPY/ P.A.TO.JUDGE sts P.D. RAJAN, J.

----- Crl.M.C.No.718 of 2012
----- Dated this the 28th day of January, 2014

ORDER

This petition is filed under Section 482 Cr.P.C.to quash the proceedings in
O.R.12/2006 of Alathoor Forest Range. The petitioner is the 3rd accused in the
above O.R. now pending as C.C.No.410/2012 of Judicial First Class Magistrate
Court, Alathoor, which was registered under Sections 6, 7 and 9 of Kerala
Promotion of Tree Growth in Non-Forest Areas Act 2005. The allegation is that on
23.6.2003 while the S.I. of Police, Kuzhalmannam and the party were conducting
patrol duty within their jurisdiction, they found that the teak timbers were being
transported in a tractor bearing registration No. KL9 7940 and on inspection it was
found that it were cut from a private property without permit from any authority.
Hence, they seized the vehicle, arrested the driver of the vehicle and reported to
the Forest Range Officer. In the circumstances, the Forest Range Officer,
Aalathoor registered the above occurrence report Crl.M.C.No.718/12 2 and after
completing enquiry, he furnished Annexure-A charge sheet. Hence, the petitioner,
who is the 3rd accused, approached this court to quash the proceedings.

2. The learned counsel appearing for the petitioner contended that 1st and 2nd
accused in the above case were acquitted by the JFMC, Aalathoor as per
Annexure-B judgment. He further contended that as the petitioner was working
abroad, he could not appear before the Court in time along with the other accused
in the above case. Subsequently, the case was registered and renumbered as
C.C.No.410/2012 of JFCM, Aalathoor. Both the accused in the above case were
acquitted by the trial court on the ground that no offence was committed by them

as per the above report. Since the other accused were acquitted by the trial Court, the petitioner, who is alleged to be a purchaser of the tree arrayed as 3rd accused and he has to face trial.

3. The learned Public Prosecutor submitted that the above tree was cut and removed from a private land and no sanction was obtained from the Authorised Officer as per Section 6 of Kerala Promotion of Trees Growth in Non Forest Crl.M.C.No.718/12 3 Area 2005.

4. According to Section 6 of the Act, every owner of non-forest land in a non-notified area shall have the right to cut and transport any tree other than sandal wood tree standing on his land. This provision shall not apply to trees standing in a reserved area notified by the Government at the time of assignment. Section 6 (5) reads as follows: "6. Right of owners to cut and remove trees in non-notified areas in non-forest land.- (1) xxx xxx xxx" xxx xxx xxx xxx (5) Where a specified tree is to be cut or any timber of a specified tree is to be transported from any non-forest land to any other place, the owner of such tree shall, before cutting the tree or transporting the timber, as the case may be, file before the Authorised Officer having jurisdiction over the area, a declaration containing details such as the survey number of the land from which the tree is to be cut, number of trees, species of trees, quantity of timber and the place to which such timber is being transported, either directly or send it by registered post with acknowledgment due."

5. Therefore, the owner of such tree shall before cutting tree for transporting the timber, as the case may be, file before the Authorised Officer having jurisdiction over the area, a declaration containing details such tree before the Forest Officer having jurisdiction over the area with Survey Crl.M.C.No.718/12 4 Number of the land from which the tree is to be cut, number of trees, species of trees, quantity of timber and the place to which such timber is being transported, either directly or send it by registered post with acknowledgment due.

6. Records show that, no materials were produced by the prosecution before the Court to show that the petitioner had purchased the alleged trees violating Section 6(5) of the Kerala Promotion of Tree Growth in Non Forest Areas Act 2005. The inherent powers of the High Court contemplated U/S482Cr.P.C has to be

exercised only for the three purposes mentioned in the section. The inherent jurisdiction to make such orders necessary to "give effect to any order" under this code or to prevent "abuse of the process" of any court or to secure "the ends of justice".

7. Considering the facts and circumstances of the case, I am of the opinion that this is a fit case for invoking jurisdiction under Section 482 Cr.P.C. The Supreme Court in *State of Haryana v. Bhajanlal* [1992 SCC426] held that where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person CrI.M.C.No.718/12 5 can even reach a just conclusion that there is sufficient ground for proceeding against the accused, the proceedings are liable to be quashed. Hence, in the interest of justice, I quash Annexure-A charge sheet filed against the petitioner invoking jurisdiction under Section 482 Cr.P.C and accordingly, CrI.M.C. is allowed. P.D. RAJAN, JUDGE.
acd CrI.M.C.No.718/12 6 CrI.M.C.No.718/12 7

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