

Maranna Vs. State Represented by the Deputy Conservator of Forest Officer

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Court : Karnataka Dharwad

Decided On : Feb-13-2014

Judge : K.N. Phaneendra

Appeal No. : Criminal Revision Petition No. 100030 of 2014

Appellant : Maranna

Respondent : State Represented by the Deputy Conservator of Forest Officer

Judgement :

(Prayer: This Criminal Revision Petition Is Filed Under Section 397 And 401 Of Code Of Criminal Procedure, Praying To Set Aside The Order Dated 18/19.12.2013 Passed By The Deputy Conservator Of Forest Officer, Bellary In Foc No. 7/2014-14/2673 And Release The Vehicle Bearing No. Ka-35/A-6729 To The Petitioner By Way Of Interim Custody Of The Vehicle.)

1. This Revision is preferred against the orders passed by the Deputy Conservator of Forest, Bellary in F.O.C. No.7/2013-14/2673 in refusing to release the vehicle of the petitioner bearing its Registration No. KA- 35/A-6729.

2. On perusal of the Karnataka Forest Act, particularly Section 71(B) which reads thus :

"71(B)."Issue of show-cause notice before confiscation under Section 71-A."(1) No order confiscating any timber, sandalwood, charcoal, firewoodGulmavu (Machilus

marantha) bark, Dalchini bark, Halmaddi (exudation of Ailanthus malabaricum), canes, ivory, tools, ropes, chains, boats, vehicles or cattle shall be made under Section 71-A except after notice in writing to the person from whom it is seized and considering his objections, if any; (provided that no order confiscating a motor vehicle shall be made except after giving notice in writing to the registered owner thereof if in the opinion of the authorised officer it is practicable to do so, and considering his objections, if any).

(2) Without prejudice to the provisions of sub-section (1), no order confiscating any tool, rope, chain, boat, vehicle or cattle proves to the satisfaction of the authorised officer that it was used in carrying the timber, sandalwood, charcoal, firewood, (gulmavu (Machilus marantha) bark:, Dalchini bark:, Halmaddi (exudation of Ailanthus malabaricum.), canes or ivory without the knowledge or connivance of the owner himself his agent:, if any, and the person in charge of the tool, rope, chain, boat, vehicle or cattle and that each of them had taken all reasonable and necessary precautions against such use".

(emphasis supplied)

3. In view of the above said provision, any order passed by the Authorised Officer under Section 71 (A) or 71(C), the appeal lies to the Sessions Judge and the order of the Sessions Judge shall be the final and shall not be questioned before any Court of law. Wherever the provisions says that the order is final then even under that circumstance also no revision lies against such an order. In this particular case, in view of Section 71(A) under which an Authorised Officer can pass appropriate orders with regard to the confiscation or otherwise of the property seized with all tools of vehicles, etc. Such an order has to be questioned by way of appeal under Section 71 (D).

4. In view of the above said provision, this Revision petition is not maintainable before this Court. Hence, the following Order :

The Revision Petition is dismissed as not maintainable. If advised, the petitioner is at liberty to file proper appeal before the competent Court.