

**State of Karnataka Vs. Vedavati**

**State of Karnataka Vs. Vedavati**

**SooperKanoon Citation :** [sooperkanoon.com/375985](http://sooperkanoon.com/375985)

**Court :** Karnataka

**Decided On :** Nov-25-1977

**Reported in :** 1978CriLJ1375

**Judge :** C. Honniah, J.

**Appellant :** State of Karnataka

**Respondent :** Vedavati

**Judgement :**

ORDER

**C. Honniah, J.**

1. The Range Forest Officer, Puttur, filed a complaint in the Court of the Judicial Magistrate First Class, Puttur against the accused on 24-11-1976 alleging that she had unauthorisedly cut and removed 32 trees of various kinds situated in R.S. Nos. 104/2 and 106 of Kudipady village, belonging to the Government on 25-12-1974, and thereby committed an offence punishable under Section 33 (v) of the Karnataka Forest Act, 1963 read with Rules 25 (3) and 43 of the Karnataka Forest Rules, 1969. The accused appeared in the court and raised an objection that the Court should not take any cognizance of the offences in view of the bar under Section 468 of the Cr. P.C. The learned Magistrate without giving any reasons condoned the delay although the delay was not explained. Thereupon, 'the accused filed a revision petition before the learned Sessions Judge, Dakshina

Kannada at Mangalore. The learned Sessions Judge held that there was delay in filing the complaint and that delay was not explained satisfactorily and in that view of the matter he allowed the revision petition and directed the complaint to be dismissed. Aggrieved by this decision, the State has come up to this Court.

2. The only point that arises for consideration is whether the court was barred from taking cognizance of an offence committed on 25/12/1974 for which the charge-sheet was filed on 24-11-1976.

3. The facts which are not in dispute are these:

The accused gave an application to the Range Forest Officer, Puttur, on 26-8-1974 for permission to cut and remove the trees from R.S. Nos. 104/2 and 106 of Kudipady village, which belonged to her. It appears soon thereafter she cut and removed some trees. In the meanwhile the said application was referred to the Assistant Superintendent of Land records, Mangalore, to verify the boundaries of the lands wherefrom the trees had to be cut and removed. He made a report on 20-11-1974 stating that the accused had cut and removed the trees from the Government land instead of her land. In the meantime she made another application to the Range Forest Officer to issue permit to her to remove the trees. That application of the accused was referred to the Taluk Surveyor who noticed that 31 trees were cut from the Government land and accordingly he made a report. These facts came to the notice of the Range Forest Officer on 25-12-1974. Although the accused had cut the trees from the Government land earlier to the date, the fact remains that the Range Forest Officer actually came to know the offence committed by the accused only on 25/12/1974. Thereafter there was some correspondence between the accused and the Range Forest Officer and ultimately the case was filed on 24-11-1976 before the Judicial Magistrate First Class, Puttur, On these facts, it is clear that no application was filed for condonation of delay under Section 473 of the Cr. P.C. explaining the circumstances under which the charge-sheet was not filed against the accused within the period of limitation as provided under Section 468 of the Cr. P.C.

4. Section 468 of the Cr. P.C. reads as follows.-

468 (1) Except as otherwise provided elsewhere in this code, no court shall take cognizance of an offence of the category specified in Sub-section (2) after the expiry of the period of limitation.

(2) The period of limitation shall be-

(a) six months, if the offence is punishable with fine only;

(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;

(c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years;

5. The offence committed by the accused, if proved, is one falling under Section 468 (2) (b) of the Cr. P.C. That being so, the charge-sheet should have been filed within one year from 25-12-1974. As regards the condonation of delay, it should not be condoned as a matter of course. The delay has to be condoned with exercise of judicial discretion. Section 473 of the Cr. P.C. empowers the court to condone such delay, if sufficient cause is shown or in the interest of justice or if the interest of justice makes it necessary to do so. But the application of the section would always depend upon the facts and circumstances of each case of which the court would be required to exercise its judicial discretion in the matter like an application under section 5 of the Limitation Act. In the case on hand, a valuable right which was accrued to the accused could not have been interfered with by the learned Magistrate, there being no sufficient cause.

6. In the result, this petition fails and is dismissed.