

Ramesh Vs. State of Kerala

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Court : Kerala

Decided On : Feb-16-2010

Reported in : 2010(1)KLT794

Judge : K.T. Sankaran, J.

Acts : Wild Life Protection Act, 1972 - Sections 2, 9, 39, 42, 44, 49, 49B, 50, 51 and 57; ;[Code of Criminal Procedure \(CrPC\) , 1973](#) - Section 439; ;[Constitution of India](#) - Article 51A

Appeal No. : Bail Appl. No. 690 of 2010

Appellant : Ramesh

Respondent : State of Kerala

Advocate for Def. : M.S. Breez, Government Pleader

Advocate for Pet/Ap. : T.A. Uniikrishnan and; P.P. Biju, Advs.

Judgement :

K.T. Sankaran, J.

1. Bail Application No. 584 of 2010 is filed by Accused Nos. 1 to 4 in O.R. No. 1 of 2010 of Vallakadavu Forest Range, Idukki District, while B.A. No. 690 of 2010 is filed by Accused Nos. 5 to 8 therein. The applications are filed under Section 439

of the Code of Criminal Procedure.

2. The offences alleged against the accused are under Sections 2, 9, 39, 42, 44, 49, 49B, 50, 51 and 57 of the Wild Life Protection Act.

3. The prosecution case is the following: On getting intelligence information that a leopard skin was being transported in the Jeep bearing registration number KL-02 C 6072, on 23.1.2010, Mundakkayam Forest Flying squad arrested accused Nos. 1 to 4 (Ratheesh, Shamnad alias Sadique, Asokan and Afsal) while they were transporting a leopard skin. Apart from the leopard skin, a G.P.S., film rolls, batteries etc. were also found in a bag kept in the jeep.

4. Further investigation revealed that the leopard was trapped by accused Nos. 1 and 5 to 8 by using a cable. The trap was laid by them near a trench in Rattington Valley Reserve in Periyar Tiger Reserve. On finding that a leopard was trapped, they killed the same by pelting heavy stones. The leopard was then kept concealed. Later, the skin was removed. They also cooked the meat of leopard. But the meat was not tasty and therefore, it was thrown away. The carcass of leopard was disposed of by them. The skin was dried and kept.

5. Accused No. 1, Ratheesh, was working as a temporary Mazdoor worker of Vallakkadavu Forest Range. He was entrusted with the duty of tiger monitoring also. Accused No. 5, Ramesh, is the elder brother of accused No. 1. Accused Nos. 6,7 and 8 (Biju, Baiju and Shaiju) are the neighbours of accused No. 1. Accused No. 6 Biju was working as a Fire watcher of Periyar West Division at Pampa. Accused No. 7 Baiju was working as a watcher of Vallakkadavu Forest Check post.

6. The taxi jeep driven by Accused No. 3 Asokan was hired by Accused No. 1. Accused No. 4 Afsal was also in the jeep. Afsal is the son of the owner of the taxi jeep. It would appear that the jeep was taken in auction from Marayoor a few weeks before the date of incident. Prima facie, it would appear that Asokan and Afsal were not aware of the transportation of tiger skin. The jeep was hired by the first accused. It is alleged that the second accused Shamnad alias Sadique wanted to purchase the tiger skin.

7. From the Case Diary, it is revealed that the second accused had met with a road traffic accident two years ago in which he sustained severe injuries. Even now, he has urinary problems and he uses urine bags.

8. Accused Nos. 1 to 4 were arrested on 23-1-2010, while accused Nos. 5 to 8 were arrested on 27.1.2010. They are in judicial custody.

9. The offences levelled against the accused are grave in nature. The offence was committed inside the reserve forest and in the tiger reserve. A leopard, a rare species of wild animal, was trapped by them. They killed the leopard, collected its skin and tried to sell it. Accused Nos. 1,6 and 7 are temporary workers in the Forest Department. That makes the offence graver. They are bound to protect the forest and the wild life. Their duty to protect wild life is greater than of any other citizen.

10. Every citizen has a duty to protect wildlife. Article 51-A of the [Constitution of India](#) enshrines the fundamental duties of citizens. Article 51-A(g) provides that it shall be duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures. Offences under the Wild Life Protection Act are to be viewed very seriously - even while dealing with the Bail Applications filed by the accused who are involved in grave offences under the Wild Life Protection Act. Each case has to be considered in the light of the facts and circumstances of the case. Recently, offences under the Wild Life Protection Act is on the increase. It is reported that Barn owl ('Velli moonga'), Red Sand Boa ('Iruthala moori'), star tortoise etc. are being caught and sold for very high price. It is said that these wild animals are being exported. The purpose of their use is not known. It is said that the market price of a barn owl comes to around Rs. One lakh. Trafficking in snake venom is another area of criminal activity in which some persons are involved. It is submitted by the learned Public Prosecutor that snake venom is being used as a psychotropic substance and it fetches a price of around Rs. 10,000/- per ml. In an attempt to make easy money, several persons find it convenient to indulge in such criminal activities, which amount to offences under the Wild Life Protection Act. The net result of these activities is depletion of wild life. Courts should be alert in

respect of these new areas of criminal activities.

11. The criminal activities leading to offences under the Wild Life Protection Act are varied. Offences committed inside reserve forest, tiger reserve, ecologically important spots etc. are to be viewed more seriously. At the same time, it was noticed, there are cases where villagers commit offences under the Wild Life Protection Act, without knowing the legal implications and without even knowing that it would amount to an offence. Instances were noticed where the villagers used to trap wild pigs to protect their agricultural crops. Once the animal is trapped, they would use it for food also. They would supply the meat of wild pig to neighbours and relatives, sometimes for consideration and sometimes as gift. Many of them do not even know that such trapping of wild animals and killing them is an offence. It is highly necessary to educate the villagers and persons residing near the forest areas, about the importance of protecting wild life. They should also be educated as to how their seemingly innocent acts would probably amount to an offence under the Wild Life Protection Act. The villagers and agriculturists should be made aware of their fundamental duties, with particular emphasis on Article 51(g) of the [Constitution of India](#). An apparently innocuous act of protecting agricultural crops by trapping wild animals, may amount to an offence under the Wild Life Protection Act. Punishing a man for such an offence may seem to be harsh. If the villagers and agriculturists are made aware of the salient aspects of Wild Life Protection Act and the purpose and object of the Act, instances of commission of such offences would be negligible. The people at large should be properly made aware of the necessity of protecting the wildlife and preserving the forests. Forest and Wild Life Department could arrange wide ranging 'awareness programmes' in this regard. Such awareness programmes would certainly make the people dutiful citizens.

12. In the facts and circumstances of the case, I am of the view that accused Nos. 1, 2 and 5 to 8 are not entitled to get bail at this stage. Investigation of the case is not over. If they are released on bail at this stage, it would adversely affect the proper investigation of the case. At the same time, I am of the view bail can be granted to accused Nos. 3 and 4 (Asokan and Afsal).

13. Petitioners 3 and 4 in B.A. No. 584 of 2010 (accused Nos. 3 and 4 -Asokan and Afsal) shall be released on bail on their executing bond for Rs. 25,000/- each with two solvent sureties for the like amount to the satisfaction of the Judicial Magistrate of the First Class I, Peer made, subject to the following conditions:

A) They shall report before the investigating officer between 9 A.M. and 11 A.M. on all Mondays, till the final report is filed or until further orders;

B) They shall appear before the investigating officer for interrogation as and when required;

C) They shall not try to influence the prosecution witnesses or tamper with the evidence;

D) They shall not commit any offence or indulge in any prejudicial activity while on bail;

E) In case of breach of any of the conditions mentioned above, the bail shall be liable to be cancelled.

B.A. No. 584 of 2010 is partly allowed as above and B.A No. 690 of 2010 is dismissed.

The Registry will forward copy of this Order to the Secretary, Forest and Wild Life Department, Government of Kerala, and the Principal Chief Conservator of Forests, Thiruvananthapuram.

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