

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF JANUARY, 2023

BEFORE

THE HON'BLE MR. JUSTICE HEMANT CHANDANGOUDAR

CRIMINAL PETITION NO.8257/2018

BETWEEN:

ASHRAF M  
S/O LATE KHONJI AHMED,  
AGED ABOUT 46 YEARS,  
NO.27, KONADASAPURA VILLAGE,  
VIRGONAGAR POST,  
BENGALURU-560 049.

...PETITIONER

(BY SRI NAVEEN KUMAR P., ADVOCATE)

AND:

1. STATE OF KARNATAKA  
BY DEPARTMENT OF FOREST BY  
RANGE FOREST OFFICER,  
K.R. PURAM RANGE, BENGALURU-560 036,  
REPRESENTED BY STATE PUBLIC PROSECUTOR,  
HIGH COURT OF KARNATAKA,  
HIGH COURT BUILDING, BENGALURU-560 001.

2. T.S. SHIVANANDA  
AGED ABOUT 56 YEARS,  
RANGE FOREST OFFICER,  
FOREST TRAFFIC SQUAD,  
BENGALURU-560 049.

...RESPONDENTS

(BY SRI MAHESH SHETTY, HCGP FOR RESPONDENT/STATE)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF THE CODE OF CRIMINAL PROCEDURE, PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.595/2016 (FOC NO.07/2015-16) REGISTERED BY RESPONDENT POLICE ON THE FILE OF A.C.J.M, BENGALURU RURAL DISTRICT FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 2(16)(b), 9, 39, 49 AND 51 OF WILD LIFE (PROTECTION) ACT, 1972.

THIS CRIMINAL PETITION COMING ON FOR ADMISSION THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Accused herein was in possession of common Languor (Presbytis entellus), 4 Parrots (Psittacidae) and 2 Ducks (Anatidae). The Range Forest Officer concerned conducted a raid and sized the said animal and birds from the custody of the petitioner-accused. Thereafter, the Range Forest Officer submitted a charge sheet before the learned Magistrate for the offences under Sections 2(16)(b), 9, 39, 49 & 51 of the Wild Life (Protection) Act, 1972.

2. The learned Magistrate on the basis of the final report submitted by the Range Forest Officer took cognizance of the aforesaid offences which is impugned in this petition.

3. The learned counsel appearing for the petitioner submits that the cognizance of the offence punishable under the Wild Life Protection Act, 1972 can be taken only on the complaint of any person specified in Section 55 of the Act, 1972. Hence, the cognizance taken on the final report submitted by the Range Forest Officer is one without authority of law.

4. On the other hand, the learned HCGP appearing for the State submits that the petitioner who was found in possession of the animal and birds in contravention of the Act has committed the aforesaid offences. Hence, the cognizance taken by the learned Magistrate cannot be faulted with and sought for dismissal of the petition.

5. I have examined the submissions of the learned counsel appearing for the parties.

6. The Range Forest Officer registered the FIR for the aforesaid offences alleged against the petitioner-accused. Section 55 of the Act, 1972 specifies that the cognizance of the offences under the provision of the Act, 1972 can be taken only

upon a complaint in writing by a person enumerated in Section 55 (a to c). In other words, the cognizance cannot be taken on the basis of the final report submitted by the Range Forest Officer. Hence, the cognizance taken on the basis of the final report is impermissible and stands vitiated.

7. Accordingly, I pass the following:

ORDER

- i) The Criminal Petition is allowed.
- ii) The impugned proceedings in C.C.No.595/2016 (FOC No.07/2015-16) pending on the file of the Additional Chief Judicial Magistrate, Bengaluru Rural District is hereby quashed.

Sd/-  
JUDGE