

(2024) 01 KL CK 0040
In the High Court Of Kerala
Case No : Writ Appeal No. 1311 Of 2023

Angels Nair

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 05-01-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 144

Citation : (2024) 01 KL CK 0040

Hon'ble Judges : A. Muhamed Mustaque, J;Shoba Annamma Eapen, J

Bench : Division Bench

Advocate : T.P.Sajan

Final Decision : Disposed Of

Judgement

Shoba Annamma Eapen, J

1. This intra court appeal is filed by the petitioner in WP(C) No.4366 of 2022 challenging judgment dated 22.03.2023 of the learned Single Judge.

2. The appellant is the General Secretary of the NGO, "Animal Legal Force Integration", and is an animal lover. Ext.P1 newspaper report dated 21.01.2022 under the caption "Get nod to shoot leopard if needed" prompted the appellant/petitioner to file the writ petition. A mother leopard delivered two cubs inside an uninhabited house in Ummini Village in Akathethara Panchayat in Palakkad District. It is alleged that on getting information on 09.01.2022, the forest officials immediately took away the cubs in violation of the Standard Operating Procedure (SOP) issued by the National Tiger Conservation Authority (NTCA), to the Divisional Forest Office at Palakkad. It is further alleged that video footage was circulating in the social media that four people not in uniform came with a used cardboard box, picked up the two cubs with bare hands and rushed out hurriedly. According to the appellant, since the forest officials took away the cubs, the mother leopard was causing threat to the villagers in search of the cubs. After consideration of the issue, the learned Single Judge found that the

cubs were removed from the spot since the ground situation warranted such action on the apprehension that the cubs would be harmed by the people assembled at the spot. It was observed that attempts were made to save the lives of the cubs and the materials do not indicate that the officials have committed hunting or any other offence under the Wildlife (Protection) Act, 1972 (for short, "the Act") and that the apprehension that the leopard would be shot does not subsist since the leopard returned to its natural environment with one of its cubs. Accordingly, the writ petition was closed, noting that nothing survives for consideration. Aggrieved by this, the writ petitioner has come up in appeal.

3. Heard Sri.Angelsnair, the appellant/ petitioner, who appeared in person; and Sri.T.P.Sajan, learned Special Government Pleader (Forest).

4. In appeal, the apprehension raised by the appellant is that the Forest Department snatched away the two cubs by violating the Standard Operating Procedure (SOP) issued by the NTCA and the Act. It is also alleged that no attempt has been made to reunite the cubs with the mother leopard and that the intention of the department was to kidnap and display the cubs as show piece in the newly constructed zoological park.

5. The relevant portion of SOP issued by the NTCA reads as follows;

"Suggested field actions to deal with strayed wild carnivores (tiger/leopard)

(a) At the outset, constitute a Committee immediately for technical guidance and monitoring on day to day basis, as under:-

i. a nominee of the Chief Wildlife Warden

ii. A nominee of the National Tiger Conservation Authority.

iii. A veterinarian

iv. Local NGO representative

v. A representative of local panchayat

vi. Field Director/Protected Area Manager/DFO I/C-Chariman

(h) Create "Pressure Impression Pads, (PIP's) in the area to ascertain the daily movement of the animal, while plotting the same on a map. Proactively involve District Collector/DM and SSP/SP of the area to maintain law and order in the area, besides avoiding crowding by local mobs. Acquaint them with human-tiger conflict issues and guidelines of the NTCA to deal with the situation.

(j) In all instances of wild carnivores like tiger/leopard straying into a human dominated landscape, the district authorities need to ensure law and order by imposing section 144 Cr.PC. This is essential to avoid agitation/excited local people surrounding the animal spot which hampers capture operation, leading to serious injuries on people and staff. It is also necessary that police and local administration be involved at an early stage. Effective coordination with them is

critical to control mobs which has been seen several instances, worsen the situation and lead to avoidable fatalities/tragedies.”

6. When this case came up on 25.09.2023, this Court directed the competent officials to file an affidavit as to whether the forest officials have been sensitised and whether SOP is being followed by the officials or not. Pursuant to the direction of this Court, the fourth respondent filed an affidavit, stating that two newborn leopard cubs were found in an unoccupied building in human habitations in Pappadi area of Ummini under the jurisdiction of Walayar Forest Range, an area very near to the forest. The cubs were not orphaned or abandoned, but under mother care. Since people spotted the location, the mother leopard got disturbed and moved away and despite thoroughly searching the area, no presence of the mother leopard could be traced out. It is stated that there was neither straying of leopard in the human habitat in the nearby area nor any emergent situation. Hence, according to the respondents, there was no occasion to take steps as provided in the SOP for dealing with straying in the human habitat. It was further stated that since there was presence of local people at large in the area where the cubs were found, it was necessary to safeguard the cubs avoiding stress in the presence of the crowd and accordingly, the cubs were shifted to transit care for medical and allied attention. According to the respondents, they have put in relentless efforts to get the mother leopard to reunite with the cubs and in the process, one of the cubs was reunited with the mother, however, even after repeated attempts, the second cub was found to be weak and unhealthy and though it was transferred to transit care and was given all the medical care under the experts, it succumbed to death after 56 days of rescue. It is stated that though there was no separate SOP available for rescuing leopard cubs, all standard protocols in handling wild animals, medical care, diet etc. were followed under the strict supervision of experts as is evident from the Enquiry Report submitted by the Chief Conservator of Forests & Field Director, Palakkad, based on the enquiry conducted as per proceedings dated 18.05.2022. It is further stated that as part of induction training, all the field staff up to senior forest officers were given training on rescue, handling and rehabilitation of wild animals including exposure on all the procedures and the SOP followed in the field. According to the respondents, after obtaining a photo of the mother leopard taking one of the cubs on 10.02.2022, there was no report regarding the mother leopard coming to the area or straying in the human habitat and hence, there was no occasion for following the SOP.

7. On going through the entire averments raised on both sides, it is seen that the issue arose when the mother leopard delivered two cubs in an uninhabited house in Ummini Village in Akathethara Panchayat in Palakkad District and there was interference of local people. On information, the forest officials removed the cubs immediately for keeping them safe for the time being and thereafter, possible steps were seen taken by the officials for uniting the cubs with the mother leopard. However, records reveal that one of the cubs, which was found healthy, was taken by the mother leopard, and the other one, which was found unhealthy,

succumbed to death after 56 days of rescue. The petitioner could not produce any material to show that the respondents have not taken proper care of the cubs or have violated the protocol. As per the statement filed by the forest officials, all attempts were made to save the lives of the leopard cubs. It is further stated that as part of induction training, all field staff up to senior forest officers were given hands-on training on rescue, handling and rehabilitation of wild animals including exposure on all the procedures and SOP followed in the field. The relevant portion of the SOP extracted above suggests field actions to deal with strayed wild carnivores (tiger/leopard). According to the respondents, no straying of tiger or leopard in the human habitat was reported after 10.02.2022 and so, there was no occasion to follow the SOP.

8. The learned Single Judge has considered the entire matter in detail and we do not find any reason to interfere with the impugned judgment. However, we are of the view that while dealing with wild animals, the forest officials have to be keen in following the SOP.

Therefore, the writ appeal is disposed of with a direction that henceforth, while dealing with wild animals, the forest officials have to be keen in following Standard Operating Procedure (SOP) issued by the NTCA and the Act strictly, if found straying in the human habitat.