

(2021) 04 KAR CK 0027
In the Karnataka High Court
Case No : Criminal Petition No. 936 Of 2021

M.N. Manjunath

APPELLANT

Vs

State Of Karnataka

RESPONDENT

Date of Decision : 16-04-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482
Karnataka Forest Act, 1963 — Section 24(a), (c)(ii), (d),(e), 32(2)(iii)(a)(v)(vi)(2),
73(d)
Karnataka Forest Rules, 1969 — Rule 25

Citation : (2021) 04 KAR CK 0027

Hon'ble Judges : H.P. Sandesh, J

Bench : Single Bench

Advocate : Prakash B.S, Showri H.R

Final Decision : Dismissed

Judgement

H.P. Sandesh, J

1. This petition is filed under Section 482 of Cr.P.C. praying this Court to quash the charge-sheet in C.C.No.645/2012 arising out of case Crime

No.FOC 42/2010-11 dated 26.05.2012 of Range Forest Officer, Kanakapura Range, Kanakapura for the offence punishable under Section 24(a), (c)

(ii), (d),(e), 73(d), 32(2)(iii)(a)(v)(vi)(2) of Karnataka Forest Act and Rule 25 of the Karnataka Forest Rules, pending on the file of the II Additional

Civil Judge and JMFC, Kanakapura.

2. The factual matrix of the case is that the respondent herein initiated the criminal prosecution against the petitioner herein making the allegation that

the petitioner is the grantee of quarrying lease granted by the State of Karnataka to an extent of 4 acres in Survey No.67 of Kabbhalli Village,

Kanakapura Taluk, Ramanagara District covered under the registered quarrying lease deed No.728 dated 20.08.2005 for quarrying multi colour

granite. The allegation in the charge-sheet is that this petitioner in excess of the lease area illegally trespassed the land of Forest Department and

caused damage to the boundary line and also unauthorisedly felled trees 100 meters inside the forest area, which consists of gomal land and thereby

committed the above offence. It is also an allegation that 1.8 tons of firewood was also seized and Tata Hitachi vehicle was seized and thereafter as

per the Court order, the vehicle was released. There are eye-witnesses to the incident and investigation is conducted and charge-sheet is filed.

3. The learned counsel for the petitioner would vehemently contend that this petitioner has not encroached the forest area or indulged in such activity

as alleged in the charge-sheet. The learned counsel brought to the notice of this Court the order passed by this Court in W.P.Nos.38415-38420/2019

and other connected matters dated 24.06.2011, wherein this Court referred the matter to the Rule 11 Committee to pass an order and interim order

which has been granted earlier is subsisting and no report is given by the Rule 11 Committee. The learned counsel would submit that no survey is

conducted and no report is given with regard to encroachment and hence there cannot be any criminal prosecution against the petitioner.

4. Per contra, the learned High Court Government Pleader would appearing for the respondent would contend that the judgment passed by this Court

in the above connected writ petitions will not come to the aid of the petitioner herein wherein they have challenged invoking of writ jurisdiction

quashing the Government order dated 30.05.2006 and the modified Government order dated 21.06.2006 stopping all quarrying operations in Bengaluru

Rural District. The learned counsel would contend that this is a criminal prosecution against the petitioner for destroying the boundary line and also

encroaching upon the property belonging to the Forest Department and felling of the trees and investigation has been conducted and charge-sheet is

filed. It is a matter of trial with regard to whether the petitioner has trespassed the land of the Forest Department or not and there cannot be any

quashing of the proceedings by invoking Section 482 of Cr.P.C.

5. Having heard the learned counsel for the petitioner and the learned High Court Government Pleader appearing for the respondent and on perusal of

the charge-sheet, allegation is made against the petitioner that this petitioner caused damage to the boundary line and also fell the trees belonging to

the Forest Department to the extent of 100 meters including gomal land and violated the Forest Act and Rules.

6. Having taken note of the grounds urged in the petition and the material collected by the Investigating Officer while filing the charge-sheet, specific

allegation made against the petitioner is that he entered the forest land and caused damage to the boundary line and fell the trees. When such being

the allegations made in the charge-sheet, it is rightly pointed out by the learned High Court Government Pleader that the order passed by this Court in

writ petition will not come to the aid of the petitioner. The disputed question of encroachment and causing damage to the boundary line and felling of

trees cannot be decided in a proceedings under Section 482 of Cr.P.C. The statement of the witnesses, which have been recorded during the course

of investigation are also to be ascertained while conducting the trial. This Court cannot consider the issue involved between the parties with regard to

whether such alleged acts are done within 4 acres of land which has been leased out to the petitioner and whether the said act has been done beyond

the lease extent is a disputed question and the same has to be ascertained only by conducting a full fledged trial. Hence, I am of the opinion that it is

not a fit case to exercise the power under Section 482 of Cr.P.C. to quash the proceedings and it requires trial.

7. In view of the discussions made above, I pass the following:

ORDER

The petition is rejected.

In view of rejection of the main petition, I.A.No.1/2021 for stay does not survive for consideration and the same stands disposed of.