

(2010) 11 KL CK 0275

In the High Court Of Kerala

Case No : Criminal M.C. No. 3963 of 2010

Mohanan @ Monai, Gopi and Mathew

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 29-11-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 239, 482
Kerala Forest Act, 1961 — Section 27(1)

Citation : (2010) 11 KL CK 0275

Hon'ble Judges : Sasidharan Nambiar, J

Bench : Single Bench

Advocate : Sunny Mathew, for the Appellant; Public Prosecutor, for the Respondent

Judgement

M. Sasidharan Nambiar, J.—Petitioners are the accused in C.C. No. 96/1997 on the file of Judicial First Class Magistrate's Court-II, Thamarassery, taken cognizance for the offences under Sections 27(1)(e)(iii) and (iv) of Kerala Forest Act. This petition is filed u/s 482 of Code of Criminal Procedure to quash the proceedings contending that in view of Annexure-A2 judgment passed by the learned District Judge, Kozhikode in C.M.A. No. 134/1994 and Annexure-A3 judgment passed by this Court in O.P. No. 9478/1995, offences alleged are not attracted.

2. On hearing the learned Counsel appearing for the Petitioners and learned Public Prosecutor, I do not find it for this Court to analyse the materials and quash the proceedings as sought for. Petitioners are entitled to seek an order of discharge u/s 239 of Code of Criminal Procedure raising all the contentions raised herein as it is submitted that learned Magistrate is yet to frame the charge.

3. Petition is disposed granting liberty to the Petitioners to raise all the contentions raised herein and seek an order of discharge u/s 239 of Code of Criminal Procedure. Petitioners are at liberty to rely on Annexures-A2 and A3 judgments before the learned Magistrate. Learned Magistrate is directed not to

insist for the presence of the Petitioners for the purpose of claiming an order of discharge.