

(2014) 01 KAR CK 0210
In the Karnataka High Court
Case No : Criminal Petition No. 11773 of 2013

M/s. H.G. Ranganagoud Mines

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision : 21-01-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Forest Act, 1963 — Section 2(7) b(iv) 24(a) 6(1) 62 64(A)

Citation : (2014) 01 KAR CK 0210

Hon'ble Judges : K.N. Phaneendra, J

Bench : Single Bench

Advocate : A.S. Patil, for the Appellant; V.M. Banakar, Addl. SPP, for the Respondent

Final Decision : Allowed

Judgement

K.N. Phaneendra, J.—Heard the learned Counsel for the petitioners and the learned Addl. SPP for the respondent - State. Perused the records. The fact that emanate from the records are that:

The Range Forest Officer, Sandur Range, registered FIR in FOC No. 42/2008-09 against the petitioners and submitted a charge sheet in CC No. 44/2010 pending on the file of the learned Civil Judge (Jr. Dn.) & JMFC, Sandur for the offences punishable u/s 2(7) b(iv), 6(1), 24(a), (g), (gg), (i), (j), 62, 64(A), 73(d), 80, 81, 82 & 82(B) of the Karnataka Forest Act, 1963.

2. The allegations made against the petitioners is that one Sri H.G. Ranganagoud, own a Saw Mill, Iron Ore Mines and has a Mining Licence No. 2148. But, he encroached various other extent totally measuring 20.9 hectares of land and caused loss to an extent of Rs. 28,88,86,483/-. On the basis of the said allegations, a case has been registered against the petitioners.

3. The learned counsel for petitioners has drawn my attention to the ruling of the Hon'ble Apex Court in W.P. No. 562/2009 (Civil) vide judgment and order dated

18.04.20013 the Apex Court at para 39 has held that-

39. We make it clear that we have not understood the above statement as an admission on the part of the Federation and it is on a consideration of the totality of the facts placed before us that we accept the findings of the survey conducted by the Joint Team constituted by the orders of this Court and the boundaries of each of the leases determined on that basis. We further direct that in supersession of all orders either of the authorities of the State or Courts, as may be, the boundaries of leases fixed by the Joint Team will henceforth be the boundaries of each of the leases who will have the benefit of the lease area as determined by the Joint Team. All proceedings pending in any court with regard to boundaries of the leases involved in the present proceeding shall stand adjudicated by means of present order and no such question would be open for reexamination by any body or authority.

4. From the above said observations and order made by Hon"ble Apex Court, it is crystal clear that all the proceedings pending in any Court with regard to the boundaries of leases involved in the proceedings are stood adjudicated. In the above said decision of the Apex Court, it is also held that no such question with regard to the boundaries would be open for the examination by anybody or any authority. Therefore, it is crystal clear that the Forest authorities cannot deal with this particular matter or in pursuance of the complaint, the police also cannot do anything with reference to the boundaries of the leased properties for mining operations. In view of the adjudication of the question with regard to the boundaries of leases involved, by the Apex Court and also pertaining to the encroachment of forest area by the leaseholders even violation of any lease terms and conditions cannot be a res integra either in a civil case or in a criminal case. Therefore, in view of the above said directions of the Hon"ble Supreme Court, the Magistrate, who registered a case in C.C. No. 44/2010 cannot proceed and adjudicate the matter.

5. The learned counsel also relied upon the order passed by this Court in CrI. P. No. 10117/2013 between P. Abubakar & Another vs. State of Karnataka, wherein, it is seen that in similar set of facts this Court has quashed the criminal proceedings pending before the jurisdictional Magistrate. In view of the above facts and circumstances, the present petition also deserves to be allowed. Hence, the following-

ORDER

Petition filed u/s 482 of Cr.P.C. is hereby allowed. Consequently, the proceedings pending before Civil Judge (Jr. Dn.) & J.M.F.C. Sandur in C.C. No. 44/2010 is hereby quashed.

In view of the disposal of the petition, the pending IA No. 1/2013 does not survive for consideration. Hence, the same stands disposed off.