



Crl.R.C.No.81 of 2023
& Crl.M.P.No.19981 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNAM

Crl.R.C.No.81 of 2023
& Crl.M.P.No.19981 of 2022

M.Narasimhan,

... Petitioner

-vs-

State Rep. by,
The Forest Ranger,
Forest Ranger Office,
Gummidipoondi Range.
WLOR No.1 of 2020.

... Respondent

PRAYER: Criminal Revision Case is filed under Section 397 and 401 of Cr.P.C., to call for the records in C.M.P.No.1728 of 2022, dated 06.07.2022, on the file of Judicial Magistrate No.II, Ponneri and to set aside the same.

For Petitioner : Mr.M.Mohamed Riyaz
For Respondent : Mr.V.Meganathan
Govt. Advocate (Crl.Side)

1 of 8



Crl.R.C.No.81 of 2023
& Crl.M.P.No.19981 of 2022

WEB COPY

ORDER

This Criminal Revision Case has been filed against the impugned order passed by the Learned Judicial Magistrate No.II, Ponneri, in C.M.P.No.1728 of 2022, dated 06.07.2022.

2. The Learned Counsel for the petitioner submitted that the petitioner is the owner of the licensed gun bearing No.SBBL.73292 and licensed bearing No.A009PTP6 to hold the gun and Bullets. On 11.12.2020, the said gun and bullets were seized from the petitioner without any reason and the respondent/Forest Ranger registered a case in WLOR No.1 of 2020, for the offences under Sections 2(16), 9, 50, 51 (1) of Wild Life Protection Act.

3. Further, the Learned counsel for the petitioner submitted that the petitioner filed a petition in Crl.R.C.No.936 of 2021 before this Court to return of the gun and this Court, by an order dated 28.01.2022, permitted the petitioner to compound the offence and approach the trial Court to return of property. As per order of this Court, offence was compounded on payment of fine of Rs.25,000/- on

2 of 8



Crl.R.C.No.81 of 2023
& Crl.M.P.No.19981 of 2022

WEB COPY 20.04.2022. Further, he filed a petition for return of property before the Learned Judicial Magistrate No. II, Ponneri, and the same was dismissed on the ground that the seized the property shall become the property of the State Government and even though, the offence was compounded, the petitioner is not entitled to receive the property and the order of dismissal passed by the Trial Court is against the principle of law laid down by the Hon'ble Apex Court in *Principal Conservator of Forest -vs- J.K.Johnson and others* reported in *2011 (10) SCC Page 764* and as such, the impugned order is liable to be set aside.

4. When the matter is taken up, the Learned Government Advocate (Crl.Side) for the respondent submitted that, a case registered by the Forest Ranger in WLOR.No.1 of 2020, was compounded by the Competent Officer.

5. I have considered the submissions made by the Learned Counsel for the petitioner and the Learned Government Advocate (Crl.Side) for the respondent. Records perused.



Crl.R.C.No.81 of 2023
& Crl.M.P.No.19981 of 2022

WEB COPY

6. On perusal of the records, the facts reveals that the respondent/Forest Ranger registered a case against this petitioner and another accused person in WLOR.No.1 of 2020, for the offences under Sections 2 (16), 9, 50, 51 (1) of Wild Life Protection Act, and thereby seized a gun bearing SBBL No.73292 and bullets from the petitioner and he is the owner of the gun bearing SBBL No.73292 and he is having licensed bearing No. A009PTP6 to hold the said gun. On 18.03.2022, the petitioner has compounded the offence and in as much as the WLOR. No.1/2020 was compounded. The petitioner approached the Learned Judicial Magistrate No. II, Ponneri in C.M.P.No.1728 of 2022 and the same was dismissed by the Trial Court on 06.07.2022 on the ground that the seized the property shall become the property of the State Government and even though, the offence was compounded, the petitioner is not entitled to receive the property and the order of dismissal passed by the Trial Court is against the principle of law laid down by the Hon'ble Apex Court and this Hon'ble Court.

7. Under such circumstances, Section 68 of the Forest Act, 1927, which reads as below:-

4 of 8



WEB COPY



Crl.R.C.No.81 of 2023
& Crl.M.P.No.19981 of 2022

“68. Power to compound offences.—(1) The State Government may, by notification in the Official Gazette, empower a Forest officer—

(a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other than an offence specified in Section 62 or Section 63, a sum of money by way of compensation for the offence which such person is suspected to have committed, and

(b) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(2) On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property if, any seized shall be released, and no further proceedings shall be taken against such person or property.

(3) A Forest-officer shall not be empowered under this section unless he is a Forest-officer of a rank not inferior to that of a Ranger and is in receipt of a monthly salary amounting to at least one hundred rupees, and the sum of money accepted as compensation under clause (a) of sub-section (1) shall in no case exceed the sum of fifty



Crl.R.C.No.81 of 2023
& Crl.M.P.No.19981 of 2022

WEB COPY

rupees.”

8. Therefore, in view of the above said provision, on payment of compoundable amount, the accused person should be discharged and the property seized in connection with the commission of offence shall be released and no further action is required.

9. Accordingly, the ***Criminal Revision Case is Allowed.*** The impugned order dated 06.07.2022 passed by the Learned Judicial Magistrate No.II, Ponneri, in C.M.P.No.1728 of 2022 is hereby set aside. The Respondent/Forest Range Officer is directed to return the gun bearing license SBBL No.73292 and bullets to the petitioner forthwith. Consequently, connected Miscellaneous Petition is also closed.

01.02.2023

Index :Yes/No.
Internet :Yes/No.
bsm

6 of 8



Crl.R.C.No.81 of 2023
& Crl.M.P.No.19981 of 2022

WEB COPY

To,

1. The Learned Judicial Magistrate No.II, Ponneri.
2. The Forest Ranger, Forest Ranger Office, Gummidipoondi Range.
3. The Public Prosecutor, High Court, Madras.



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Crl.R.C.No.81 of 2023
& Crl.M.P.No.19981 of 2022

V.SIVAGNANAM, J.,

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Crl.R.C.No.81 of 2023
& Crl.M.P.No.19981 of 2022

01.02.2023

8 of 8