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STATE OF KARNATAKA

v.

K. KRISHNAN

AUGUST 17, 2000

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[K.T. THOMAS AND R.P. SETHI, JJ.]

*Karnataka Forest Act, 1963 :*

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*S. 62—Forest produce—Unauthorised transportation of—Seizure of along with the vehicle—Authorised officer directing to release the vehicle on furnishing bank guarantee—Order challenged u/s. 482 Cr.P.C.—High Court modifying the order and directing release of vehicle on furnishing sureties—Held, order is contrary to law—Vehicle used in committing a forest offence when seized, shall not normally be returned till culmination of all proceedings including confiscatory proceedings—For exceptional reasons furnishing a bank guarantee should be the minimum condition—No opinion expressed on power of High Court u/s. 482 Cr.P.C. in the matter.*

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A jeep and a lorry along with certain forest produce, which was being transported in violation of the provisions of the Karnataka Forest Act, 1963, were seized by the Range Forest Officer. The respondent filed an application for release of the jeep to him on interim custody. The Authorised Officer ordered the vehicle to be released to the respondent, *inter alia*, subject to the condition that respondent would furnish irrevocable bank guarantee. The respondent filed a petition under s.482 Cr.P.C. for quashing of the order of the Authorised Officer and for unconditional release of the Vehicle. The High Court directed that the order of Authorised Officer relating to the bank guarantee would stand modified and the respondent would furnish two sureties for purpose of getting interim custody of the jeep. Aggrieved, the State Government filed the present appeal.

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Allowing the appeal, the Court

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**HELD :** 1.1. The order impugned is contrary to law. The approach adopted both by the Authorised Officer and the High Court completely ignores the importance of the forests and the purpose of the object for which the Karnataka Forest Act, 1963 was made. When any vehicle is seized on the allegation that it was used for committing a forest offence, the same shall not normally be returned to a party till the culmination of all the pro-

ceedings in respect of such offence, including confiscatory proceedings, if any. Nonetheless, if for any exceptional reasons a Court is inclined to release the vehicle during such pendency, furnishing a bank guarantee should be the minimum condition. No party shall be under the impression that release of vehicle would be possible on easier terms, when such vehicle is alleged to have been involved in commission of a forest offence.

[494-G-H; 495-B]

1.2. The provisions of the Act are required to be strictly complied with and followed for the purposes of achieving the object for which the Act was enacted. Liberal approach in the matter with respect to the property seized, which is liable to confiscation, is uncalled for as the same is likely to frustrate the provisions of the Act. Before passing an order for releasing the forest produce or the property used in the commission of the forest offence, the Authorised Officer or the Appellate Authority has to specify the reasons which justify such release, apparently, *prima facie* excluding the possibility of such forest produce or the property being confiscated ultimately. [494-C-D]

1.3. Since the appellant-State has not prayed for quashing the order of the Authorised Officer, this Court refrains to deal with the matter further, though the Court does not approve it. Further, the Court has its reservations with respect to the powers of the High Court under s.482 Cr.P.C. in the matter. [495-C]

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 668 of 2000.

From the Judgment and Order dated 11.10.99 of the Karnataka High Court in CrI.P. No. 2852 of 1999.

N.P. Midha and N. Ganpathy for the Appellant.

The Judgment of the Court was delivered by

**SETHI, J.** Leave granted.

A jeep bearing Registration No.KLI 3839 and Lorry with Registration No.KA-21-2071 were seized by Shri Padmanabha Gowda, Range Forest Officer, Puttur on 3.9.1997 along with six Kiralbhogi logs, a forest produce which was being transported without the permit in violation of the provision of the

A Karnataka Forest Act, 1963 (hereinafter referred to as "the Act"). After registration of Case No.199/96-97, the vehicles along with the seized timber were produced before the Authorised Officer (Deputy Conservator of Forests, Mangalore Division, Mangalore) for taking action under Section 71-A of the Act. Vide order dated 6.2.1997 the Range Forest Officer, Puttur was authorised

B to keep the vehicles and logs under his safe custody till further orders. Lorry owner filed an application for the release of his vehicle which was rejected on 14.5.1997. However, vide order dated 11.7.1997, passed by the Additional Sessions Judge, D.K. Mangalore in Criminal Appeal No.52 of 1997, the said lorry was released to its registered owner on interim custody. Thereafter the

C respondent filed an application praying for the release of the vehicle to him on interim custody. On production of RC Book the jeep bearing Registration No.KLI 3839 was ordered to be released to the interim custody of the respondent subject to the following conditions:

- D "1. The applicant shall furnish irrevocable Bank Guarantee for Rs.85,000 from a scheduled bank which shall be renewable from time to time till the disposal of the case charged against the jeep.
2. The applicant shall not alienate or further encumber the vehicle and change the identity of the vehicle till the disposal of the case.
- E 3. The applicant shall produce the vehicle on 1st of every month or next working day if 1st happens to be holiday before this court."

Not satisfied with the aforesaid order, the respondent herein filed a petition under Section 482 of the Code of Criminal Procedure in the High Court of Karnataka praying for quashing of order dated 15.9.1999 passed by the

F Authorised Officer and for the unconditional release of vehicle. It appears that the High Court directed the SPP to take notice and immediately thereafter passed the order impugned by which it was directed that the order of the Authorised Officer in so far as it related to the bank guarantee shall stand modified and the respondent shall furnish only two solvent sureties to the

G satisfaction of the authority to an extent of Rs.1,50,000 each for the purpose of getting the interim custody of the jeep.

Feeling aggrieved, the State of Karnataka has filed this appeal by special leave.

H The Act was enacted to consolidate and amend the law relating to forests and forests produce in the State of Karnataka with the main object of preserving

and protecting the forests and their produce in the State. Forests produce has been defined under sub-section (7) of Section 2 as under: A

“2(7) “forest produce” includes-

(a) the following whether found in or brought from a forest or not, that is to say: B

Timber, charcoal, caoutchoue, catechu, sandalwood lootikai (Capparis Mooni), wood oil, sandalwood oil, resin, rubber latex, natural varnish, bark, lac, mahua or ippe (Bassialatifolia) flowers and seeds, seeds of Prosopis, juliflora, kuth, and temburni or tupra (Diospyros-Melanoxylon) leaves, rosha, (Terminalia Chebulia, Terminalit Belerica phyllanthus Emblica, Rampatre and Shigakai; and C

(b) the following when found in, or brought from a forest that is to say:

(i) trees and leaves, flowers and fruits and all other parts or produce not herein before mentioned of trees; D

(ii) being plants not trees, (including grass, creepers, reeds and moss), and all parts of produce of such plants;

(iii) wild animals and peafowls and skins, tusks, horns, bones, silk cocoons, honey and wax and all other parts or produce of wild animals, pea fowls and insects; and E

(iv) peat, surface soil, rock, and minerals (including limestone), laterite, mineral oils, and all products of mines or quarries; and F

(iva) cocoa beans or pods, garcinia fruits, thornless bamboos, Halmaddi, Raldhupa and Kaldhupa;

(v) such other products of forests as the State Government may, by notification, declare to be forest produce;” G

Chapter VI of the Act makes provision for control of timber and other forest produce in transit. The Authorised Officer has the power to seize any forest produce together with all tools, boats, vehicles or cattle or any other property used in connection with the commission of an offence in respect of any forest produce. An Authorised Officer has also the power to release the H

A property seized under Section 62. All timber or forest produce, which is not  
the property of Government and in respect of which a forest offence has been  
committed and all tools, boats, vehicles and cattle used in committing any  
forest offence are liable to forfeiture to the State Government subject to the  
provisions of Section 71G of the Act. Section 71A authorises the Forest Officer  
to order confiscation of the seized property in certain cases. Any person  
aggrieved by an order passed under Section 71A or Section 71C has the right  
to file an appeal to the Sessions Judge having jurisdiction over the area in  
which the property to which the order relates has been seized.

C Learned counsel appearing for the appellant-State has submitted and we  
agree that the provisions of the Act are required to be strictly complied with  
and followed for the purposes of achieving the object for which the Act was  
enacted. Liberal approach in the matter with respect to the property seized,  
which is liable to confiscation, is uncalled for as the same is likely to frustrate  
the provisions of the Act. Before passing an order for releasing the forest  
produce or the property used in the commission of the forest offence, the  
Authorised Officer or the Appellate Authority has to specify the reasons which  
justify such release, apparently, *prima facie* excluding the possibility of such  
forest produce or the property being confiscated ultimately. Generally, there-  
fore, any forest produce and the tools, boats, vehicles, cattles, etc., used in the  
commission of the forest offence, which are liable to forfeiture, should not be  
released. This, however, does not debar the officers and the authorities under  
the Act including the Appellate Authority to pass appropriate orders under the  
circumstances of each case but only after assigning valid reasons. The liberal  
approach in the matter would perpetuate the commission of more offences with  
respect to the forest and its produce which, if not protected, is surely to affect  
the mother-earth and the atmosphere surrounding it. The Courts cannot shut  
their eyes and ignore their obligations indicated in the Act enacted for the  
purposes of protecting and safeguarding both the forests and their produce. The  
forests are not only the natural wealth of the country but also protector of  
human life by providing a clean and unpolluted atmosphere. We are of the  
considered view that when any vehicle is seized on the allegation that it was  
used for committing a forest offence, the same shall not normally be returned  
to a party till the culmination of all the proceedings in respect of such offence,  
including confiscatory proceedings, if any. Nonetheless, if for any exceptional  
reasons a Court is inclined to release the vehicle during such pendency, fur-  
nishing a bank guarantee should be the minimum condition. No party shall be  
under the impression that release of vehicle would be possible on easier terms,

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when such vehicle is alleged to have been involved in commission of a forest offence. Any such easy release would tempt the forest offenders to repeat commission of such offences. Its casualty will be the forests as the same cannot be replenished for years to come. A

The approach adopted both by the Authorised Officer and the High Court completely ignores the importance of the forests and the purpose of the object for which the Act was made. As the appellant-State has not prayed for quashing the order of the Authorised Officer we refrain to deal with that even though we do not approve it. We are, however, satisfied that the High Court had adopted a very casual approach while disposing of the petition under Section 482 of the Code of Criminal Procedure. Besides that the order impugned is contrary to law, we have our reservations with respect to the powers of the High Court under Section 482 Cr.P.C. in the matter which we do not express in this case. B C

Under the circumstances, the appeal is allowed and the order impugned, passed by the High Court is set aside. D

R.P.

Appeal allowed.