

State Of Karnataka vs K. Krishnan on 17 August, 2000

Equivalent citations: AIR 2000 SUPREME COURT 2729, 2000 (7) SCC 80, 2000 AIR SCW 2911, 2000 ALL MR(CRI) 1883, 2000 CALCRILR 462, (2000) 9 JT 356 (SC), 2000 (5) SCALE 611, 2000 SCC(CRI) 1289, 2000 (8) SRJ 196, 2001 (3) LRI 969, 2000 CRILR(SC MAH GUJ) 657, 2000 (9) JT 356, 2001 (1) UJ (SC) 112, 2000 CRILR(SC&MP) 657, (2000) ILR (KANT) 3731, (2001) 57 DRJ 48, (2000) 87 DLT 484, (2000) 3 CHANDCRIC 16, (2000) SC CR R 942, (2000) 2 CAL HN 1, (2000) 3 EASTCRIC 1053, (2001) 4 KANT LJ 299, (2000) 19 OCR 513, (2000) 3 RECCRIR 702, (2000) 3 SCJ 369, (2000) 3 CURCRIR 128, (2000) 5 SUPREME 646, (2000) 29 ALLCRIR 2172, (2000) 5 SCALE 611, (2001) 1 ALLCRILR 49

Bench: K.T. Thomas, R.P. Sethi

CASE NO.:

Special Leave Petition (crl.) 233 of 2000

PETITIONER:

STATE OF KARNATAKA

Vs.

RESPONDENT:

K. KRISHNAN

DATE OF JUDGMENT: 17/08/2000

BENCH:

K.T. Thomas & R.P. Sethi.

JUDGMENT:

SETHI,J.

L...I...T.....T.....T.....T.....T.....T.....T.....T..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 Karnataka Forest Act, 1963 (hereinafter referred to as "the Act"). After registration of Case

- [illegible]

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

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 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.

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, therefore, 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, 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. 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.

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.

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