



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

CRIMINAL PETITION NO. 730 OF 2024 (482(Cr.PC) / 528(BNSS))

BETWEEN:

SRI. PAVAN KUMAR M R
AGED ABOUT 36 YEARS,
S/O. RAGHUVeer M N,
R/AT. NO. 273, 6TH B MAIN ROAD,
KSRTC LAYOUT, J.P.NAGAR,
2ND STAGE, BANGALORE-560078.

...PETITIONER

(BY SRI. SANDESH J.CHOUTA, SENIOR COUNSEL FOR
SRI. ABHISHEK K., ADVOCATE)

AND:

STATE OF KARNATAKA
BY FOREST RANGE OFFICER,
FOREST TRAFFIC SQUAD, K.G.HALLI,
REP. BY STATE PUBLIC PROSECUTOR,
HIGH COURT, BENGALURU-560001.

...RESPONDENT

(BY SRI. M.R.PATIL, HCGP)

THIS CRIMINAL PETITION IS FILED U/S 482 CR.PC BY THE
ADVOCATE FOR THE PETITIONER PRAYING THAT THIS
HONOURABLE COURT MAY BE PLEASED TO QUASH THE ENTIRE
PROCEEDINGS IN C.C.NO.19150/2021 ARISING OUT OF PRIVATE
COMPLAINT FOR OFFENCE P/U/S 2(2), (31) 9, 39, 42, 44, 47, 48, 48A,
49B R/W 50, 51, 55 AND 58(C)(J) OF THE WILD LIFE (PROTECTION)
ACT, 1972, PENDING ON THE FILE OF XXX ADDITIONAL CHIEF
METROPOLITAN MAGISTRATE (30TH ACMM) AT BENGALURU.

THIS PETITION COMING ON FOR ADMISSION, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:





CORAM: HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

ORAL ORDER

1. The petitioner, who is facing trial for offences punishable under Sections 2(2), 2(31), 9, 39, 42, 44, 47, 48, 48A, and 49B read with Sections 50, 51, 55, and 58(C)(J) of the Wild Life (Protection) Act, 1972, has approached this Court seeking relief.

2. The prosecution case is that, upon receiving credible information that the petitioner was in possession of deer and kangaroo skin without a license, the Assistant Conservator of Forests issued a search warrant under Section 50(8) of the Wild Life (Protection) Act, 1972. Pursuant to the search warrant issued on 08.08.2021, the Range Forest Officer (RFO) conducted a search of the petitioner's premises and discovered certain prohibited articles under the Act. Subsequently, the RFO filed a complaint under Section 200 of the Criminal Procedure Code, 1973 before the learned Magistrate. After perusing the complaint, the learned Magistrate took cognizance of the offences and permitted the respondent to conduct further investigation as per Section 50(8) of the Act, 1972. Thereafter, the Assistant Conservator of Forests conducted an investigation and submitted a report on 20.12.2021, concluding that the petitioner was in possession of prohibited wildlife articles without a license.



3. Sri. Sandesh J. Chouta, learned Senior Counsel representing the petitioner, submitted as follows:

- The search warrant was issued without first registering a case against the petitioner for contravening the provisions of the Wild Life (Protection) Act, 1972. Section 50(8) of the Act specifically empowers the concerned officer to issue a search warrant only for the purpose of making an investigation, which presupposes prior registration of a case.
- The complaint was filed without conducting an investigation and without annexing the list of witnesses, contrary to the procedural requirements.
- The Assistant Conservator of Forests conducted an investigation only after the Magistrate had already taken cognizance, and subsequently submitted a final report on 20.12.2021, which is in violation of Section 50(8) of the Act, 1972.
- In support of his contention, he relied on the decisions of the co-ordinate Bench of this Court in Crl.P.No.10873/2023, disposed of on 17.11.2023, and Crl.P.No.5952/2023 & connected matters, disposed of on 06.10.2023.

4. The learned High Court Government Pleader contended that there is no mandatory requirement to register a case before filing a complaint. He argued that the learned Magistrate, after perusing the complaint, rightly took cognizance of the offences and permitted the Assistant Conservator of Forests to conduct further investigation under Section 50(8) of the Act, 1972. He submitted that the cognizance of the offences was validly taken, and no



interference is warranted. Accordingly, he sought dismissal of the petition.

5. After considering the submissions of the learned counsel for the parties, the following aspects are noted:

- Section 50(8) of the Wild Life (Protection) Act, 1972, provides that, notwithstanding anything contained in any other law for the time being in force, a prescribed officer shall have the power to issue a search warrant for the purpose of conducting an investigation. The term “investigation” refers to the process undertaken by law enforcement authorities to gather evidence, collect facts, and examine the circumstances related to a suspected offence.
- A co-ordinate Bench of this Court in Crl.P.No.5952/2023 & connected matters, disposed of on 06.10.2023, while dealing with the investigation of offences under the Act, held that:
- Chapter VI of the Act deals with investigation and complaints.
- Clause 6.5 lays down the procedure for investigating wildlife crimes.
- Clause 6.45 specifies the competent officer who can file a complaint under Section 55 of the Act.
- Clause 6.52 mandates that a complaint filed before the Magistrate must contain certain documents, including a copy of the Wild Life Offence Report (WLOR) and a list of witnesses.
- Once a complaint is filed before the Court, there is no provision for further investigation or submission of a supplementary complaint.



- If the prescribed procedure is not followed, it would vitiate the entire proceedings as such procedural lapses constitute incurable illegalities, rendering the continuation of proceedings an abuse of process of law.

6. This Court in Crl.P No.10873/2023 (DD 17.11.2023) ruled that the Assistant Conservator of Forest before issuing a search warrant was required to register a Wild Life Offence Report, as prescribed under Wildlife Crime Control Bureau, as per the guidelines issued by the Ministry of Environment and Forest, Government of India, since sub-section 8 of Section 50 of the Act, 1972 specifies that the officer prescribed shall have the power to issue search warrant for the purposes of conducting investigation.

6.1 The aforesaid order was challenged in SLP (Crl.) No.9274/2024 (DD 13.9.2024), wherein the Hon'ble Apex Court had declined to interfere with the aforesaid order, but however, observed that the turtles shall always remain in custody of the State.

7. In the present case, upon receiving credible information regarding the petitioner's possession of prohibited wildlife articles, the Assistant Conservator of Forests, before issuing a search warrant, was required to register a case in the Wild Life Offences Report (WLOR), as mandated by the Wildlife Crime Control Bureau guidelines of the Ministry of Environment and Forests, Government of India. However, in the absence of prior case registration, the entire process, including the filing of the



complaint, taking cognizance, and conducting further investigation, stands vitiated, being in violation of Section 50(8) of the Act, 1972.

8. In view of the procedural irregularities and legal infirmities, continuation of criminal proceedings against the petitioner would be unjust and constitute an abuse of process of law.

- The petition is allowed.
- The impugned proceedings in CC No.19150/2021 pending before the XXX Additional Chief Metropolitan Magistrate, Bengaluru, are hereby quashed.
- All pending applications, if any, stand disposed of as not surviving for consideration.
- The petitioner shall not be entitled to the release of the seized articles, which shall remain the property of the Government.

Ordered accordingly.

**Sd/-
(HEMANT CHANDANGOUDAR)
JUDGE**