

CASE NO.:
Appeal (crl.) 591 of 2007

PETITIONER:
Authorised Officer & Deputy Conservator of Forests & Anr

RESPONDENT:
Asgarli Khan

DATE OF JUDGMENT: 19/04/2007

BENCH:
TARUN CHATTERJEE & P.K. BALASUBRAMANYAN

JUDGMENT:
J U D G M E N T

CRIMINAL APPEAL NO.591 OF 2007
(Arising out of SLP(Crl.) No.4460 of 2004)

TARUN CHATTERJEE, J.

By an order dated 13th of September, 2004, delay of 265 days in filing SLP was condoned by this Court and thereafter notice was issued. Leave granted.

This appeal is preferred against the judgment and order dated 9th of July, 2003 passed by the High Court of Karnataka in Criminal Revision Petition No.495 of 2001 by which an order dated 13th of February, 2001 passed by the Additional Sessions Judge, XIXth Court at Bangalore City in Criminal Appeal No.45 of 1996 was affirmed.

Based on an information regarding forest offence and smuggling of sandalwood, the Inspector of Police, Siddapur Police Station, Bangalore, seized lorry bearing No. CAM 5589 on 28th March, 1995 together with sandalwood weighing about 2,435 Kg. As per the provisions of the Karnataka Forest Act, 1963, the seized materials and the lorry were produced before the Authorised Officer & Deputy Conservator of Forests. The Authorised Officer, who was the competent authority under the Forest Act, initiated a confiscation proceeding under Section 71-A of the Karnataka Forest Act, 1963 and by an order dated 28th of February, 1996 he passed an order confiscating the Sandalwood involved in the offence and also the lorry bearing number CAM 5589. The said order of confiscation was challenged by the respondent by filing an appeal before the Additional Sessions Judge, XIXth Court, Bangalore which was allowed by the learned Sessions Judge by order dated 13th of February, 2001. Feeling aggrieved by the said order of the learned Sessions Judge, the Authorised Officer and Deputy Conservator of Forest and the State of Karnataka filed a Criminal Revision Petition No.495 of 2001 before the High Court. The aforesaid criminal revision petition was dismissed by the High Court only on the ground that the same was not maintainable in law in the absence of the State of Karnataka being made a party. That is to say the High Court was of the opinion that the Authorised Officer and Deputy Conservator of Forest was not competent to prefer the criminal revision application without obtaining necessary sanction from the State of Karnataka against the order of the learned Sessions Judge, Bangalore and therefore the State of Karnataka was a necessary and proper party to file the criminal revision case and accordingly the criminal revision at the instance of Deputy Conservator of Forest only must be held to be not maintainable

in law.

Aggrieved by this order of the High Court, the instant special leave petition was filed which on grant of leave was heard in the presence of the learned counsel for the parties.

We have heard the learned counsel for the parties and examined the impugned order and other materials on record. Having looked into the records of this case, we find that the State of Karnataka was made petitioner No.2 before the High Court in the criminal revision case. During the pendency of the special leave petition this Court, an application for amendment of the cause title of the special leave petition has also been filed in which the following prayer has been made : "The State of Karnataka be represented by Principal Secretary, Forest, Environment and Ecology Department, M.S. Building, Bangalore."

Considering that the State of Karnataka had also in fact challenged the order of the learned Sessions Judge, Bangalore in the aforesaid criminal revision petition in which it was petitioner no.2, there was no reason for the High Court to dismiss the criminal revision petition on the ground aforementioned. In view of the above, we also allow the prayer for amendment made by the appellant during the pendency of this appeal. Accordingly, we allow the application for amendment and direct the department to incorporate the amendment.

For the reasons aforesaid, we allow this appeal, set aside the impugned order and restore the criminal revision petition to the file of the High Court and request the High Court to decide the same at an early date preferably within three months from the date of production of a certified copy of this order. No order as to costs.