NC: 2025:KHC-D:4966
CRL.RP No. 100249 of 2017

**IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH**

DATED THIS THE 18TH DAY OF MARCH, 2025

BEFORE

THE HON'BLE MR. JUSTICE V.SRISHANANDA

**CRIMINAL REVISION PETITION NO.100249 OF 2017
(397(Cr.PC)/438(BNSS))**

BETWEEN:

RAMESH S/O. BANGARYA ACHARI,
AGE: 65 YEARS, OCC. CARPENTER,
R/O. KOTTANKERE LANE, SIRSI, TQ. SIRSI,
DIST. UTTARA KANNADA.

...PETITIONER

(BY SRI GANAPATI M. BHAT, ADVOCATE)

AND:

THE STATAE OF KARNATAKA
BY ITS R.F.O., SIRSI,
REPRESENTED BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING, DHARWAD.

...RESPONDENT

(BY SRI PRAVEENA Y. DEVAREDDIYAVARA, HCGP)

Digitally signed by MALLIKARJUN RUDRAYYA KALMATH
Location: HIGH COURT OF KARNATAKA

THIS CRIMINAL REVISION PETITION IS FILED UNDER SECTION 397 READ WITH SECTION 401 OF CR.P.C., SEEKING TO CALL FOR RECORDS AND TO SET ASIDE THE JUDGMENT AND ORDER DATED 03.09.2005 PASSED BY THE COURT OF THE I ADDL. JMFC, SIRSI IN C.C.NO. 1319 OF 1999 AND THE JUDGMENT AND ORDER DATED 20.07.2017 PASSED BY THE COURT OF I ADDL. DISTRICT AND SESSIONS JUDGE, U.K. KARWAR, SITTING AT SIRSI IN CRL.A. NO. 120 OF 2005 AND ACQUIT THE PETITIONER FOR THE CHARGE UNDER SECTION 104(A) OF KARNATAKA FOREST ACT 1963.

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

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE V.SRISHANANDA)

Heard Sri.Ganapati M. Bhat, learned counsel for the revision petitioner and Sri.Praveena Y. Devareddyavara, learned High Court Government Pleader for the State/respondent.

2. Accused who suffered an order of conviction in CC No.1319/1999 for the offences punishable under Section 104(A) of Karnataka Forest Act, 1963 and sentenced to undergo simple imprisonment for a period of six months and to pay fine of Rs.3,000/- which was confirmed in Crl.A.No.120/2005 is the revision petitioner.

3. Factual matrix in the nutshell for disposal of the revision petition are as under:

Reserve Forest Officer (RFO) Sirsi filed a charge sheet against the accused alleging the commission of the offences punishable under Section 24(e), 62, 80, 104(A)(B)(D) Karnataka Forest Act, 1963 and under Rule 144, 145, 163 and 165 of Karnataka Forest Rules, 1969

alleging that on 18.09.1997 at about 7:30 a.m. when they stopped a jeep bearing No.MYE-2783 and enquired the driver about transporting of the wood, there was no proper explanation nor there was any permit or license to transport the wooden pieces in the said vehicle. Accordingly, they seized the same under the panchanama and for violation of the Forest Rules and Forest Act, charge sheet came to be filed against the accused.

4. Learned Trial Magistrate took cognizance for the offences alleged against the accused and secured the presence of the accused and framed the charges. Accused pleaded not guilty and therefore, trial was held.

5. After due trial, noting the fact that accused did not possess proper license or invoice to transport the sheesham wood pieces that were being transported in the said jeep.

6. Being aggrieved by the same, accused filed an appeal before the First Appellate Court in Crl.A.No.120/2005.

7. Learned Judge in the First Appellate Court on representation of the materials on record, confirmed the order of conviction and sentence.

8. Being further aggrieved by the same, accused is before this Court in this revision.

9. Sri.Ganapati M. Bhat, learned counsel for the revision petitioner reiterating the grounds urged in the revision petition contended that both the Courts have not properly appreciated the material evidence on record and wrongly convicted the accused resulting in miscarriage of justice and sought for allowing the revision petition.

10. Alternatively, he contended that in the event, this Court upholding the order of conviction, exercising the powers vested in the proviso, set aside the sentence of imprisonment by enhancing the fine amount reasonably, taking note of the fact that incident has occurred in the year 1997 and at this distance of time, having regard to the age of the revision petitioner, if he is directed to join the prison, it would result in untold hardship to the

revision petitioner and sought for allowing the revision petition to that extent.

11. Per contra, Sri.Praveena Y. Devareddyavara, learned High Court Government Pleader supports the impugned judgments.

12. He would further contend that very fact that the forest officials were able to intercept the movement of the jeep and noting the transportation of sheesham wood pieces in the said jeep without a license or the invoice would itself complete the offence alleged against the accused and sought for dismissal of the revision petition.

13. Insofar as alternate submission made on behalf of the revision petitioner is concerned, mere age of the revision petitioner could not be treated as a mitigating circumstance and sought for dismissal of the revision petition.

14. Having heard the arguments of the parties in detail, this Court perused the material on record meticulously.

15. On such perusal of the material on record, following points would arise for consideration:

1. *Whether the revision petitioner makes out a case that the impugned judgments are suffering from legal infirmity or perversity and thus, calls for interference?*
2. *Whether the sentence is excessive?*
3. *What order?*

REG.POINT No.1:

16. In the case on hand, seizure of the wood pieces in the jeep bearing No.MYE-2783 on 18.09.1997 at about 7:30 a.m. stands established by placing necessary oral and documentary evidence on record.

17. Panch witnesses have supported the case of the prosecution so also the forest officials.

18. In the absence of any previous enmity or animosity against the revision petitioner why would they falsely implicated the revision petitioner in the incident is a question that remains unanswered. Moreover, seizure of

sheesham wood pieces itself shows that forest officials have rightly intercepted the vehicle and filed charge sheet against the revision petitioner.

19. Taking note of these aspects of the matter that too when there is no explanation offered by the revision petitioner at the time of recording the accused statement, conviction order recorded by learned Trial Magistrate confirmed by the First Appellate Court needs no interference especially having regard to the limited scope of revisional jurisdiction.

20. Accordingly, point No.1 is answered in ***negative***.

REG.POINT No.2:

21. In the case on hand, incident has occurred in the year 1997 and at that juncture, revision petitioner was aged about 43 years.

22. Having regard to the age of the revision petitioner and also taking note of the fact that it is an

isolated incident and revision petitioner is the first time offender, enhancing the fine amount in a sum of Rs.25,000/- by setting aside the imprisonment and ordering to undergo simple imprisonment for the day till rising of the day would meet the ends of justice. Accordingly, point No.2 is answered ***partly in the affirmative***.

REG.POINT No.3:

23. In view of the findings of this Court on point Nos.1 and 2 as above, following:

ORDER

i. *Revision petition is* ***allowed in part.***

ii. *While maintaining the conviction of the revision petitioner for the offence punishable under Section 104(A) of the Karnataka Forest Act, 1963, sentence ordered by the learned Trial Magistrate confirmed by the First Appellate Court is modified by directing the revision petitioner to undergo simple imprisonment for a date till the rising of the Court by enhancing the fine amount*

in a sum of Rs.25,000/- to be payable on or before 30.04.2025 and confirming the confiscation of the seized wooden peaces to the forest officials.

iii. *Failure to pay the enhanced fine amount would result in automatic restoration of the imprisonment ordered by the learned Trial Magistrate less the day imprisonment which the accused has undergone today.*

Office is directed to return the Trial Court Records with copy of this order forthwith.

Sd/-
(V.SRISHANANDA)
JUDGE

KAV
CT:PA
List No.: 2 Sl No.: 42