

CC 68/2023

ORDER

The complainant filed application for permit him to submit the P.F. and produce the properties before the Court.

In the above said application, the complainant submitted that they had seized the gun from the accused persons and the

offence punishable under Sec. 24 of Karnataka Forest Act 1963 and Sec. 9, 39, 51 (Schedule 3) of Wild Protection Act 1972. They had sent the seized gun into the FSL Bengaluru for the purpose of obtaining the report. They had received the FSL report from Bengaluru along with the two cartridges. They had conducted test of the gun whether it was running condition or not through using the two cartridges and submitted the report along with the two cartridges. In order to prove the case against the accused persons, these two cartridges are plays important role to prove the case against the accused persons. Therefore, they pray to give permission to submit the PF and produce two cartridges before this Court which was sent along with the report.

Per contra, the learned counsel for the accused filed objections to the above said application and contended that the above said application was filed by the complainant without citing the Act and Rules. All the formalities are to be completed before filing the chargesheet. If really, the FSL Bengaluru

who are used two cartridges for test firing report, then all these formalities should be complied before filing the charge-sheet. But, now the complainant had intention to submit the PF along with two cartridges. Then it will go to show that there is no proper investigation was conducted and also the complainant has purposefully fabricated the case against the accused persons. The above said application was filed by the complainant at too late stage. What is the hindrance to the complainant file the PF along with the above said properties. In this regard, no explanation was given. By filing the above said application the complainant is creating new case and also the complainant is filing one or other document before this court in order to drag the proceeding. Hence, the application is not maintainable and liable to be dismissed.

On careful perusal of records, no doubt, the Assistant Conservator of Forest Officer filed the above said application without including the specific provision and act. But, he has filed the application by stating that give the permission to submit the PF including

the properties two cartridges. According to him they had seized the gun from the accused persons. Then, they had sent the above said gun in to the FSL Bengaluru to verify that at the stage of committing of alleged offence. The alleged gun was in using conditions or not. Then as per the requisition of the Assistant Conservator of Forest Officer the FSL Bengaluru conducted test firing and the applicant submitted that above said test firing was conducted by the FSL Bengaluru through two cartridges. When they had completed the FSL report, then they had sent the FSL report along with the two cartridges. But due to mistake, these two cartridges were not produced by the complainant. Therefore, he prays for allow the above said application.

Per contra, the learned counsel for the accused contended that in order to protract the proceedings without including the proper provision and act the above said application was filed. If really, FSL Bengaluru had sent the report along with two cartridges, what is the hindrance to the IO to submit the above said FSL report along with the two cartridges

at the time of filing of the chargesheet. In this regard, the IO has not given any explanation in his chargesheet. Now the complainant has intention to improve his case by producing the properties and submission of the PF before this court. Then the attitude of the complainant shows he has fabricated the case against the accused persons. There is no real truth with respect to alleged offence was committed by the above said accused persons. Hence, application is not maintainable and liable to be dismissed.

Even though the above said objection raised by the learned counsel for the accused No.1 and 3, if the opportunity is given to the said Assistant Conservator of Forest, it will not cause great loss and hardship to the accused persons. Because the accused is having good opportunity to cross-examine the above said witness and he can elicit the real truth from the above said witness at the time of his cross-examination. If the application is rejected on the basis of technical grounds, then it will cause difficult to the prosecution to prove the alleged offence. By rejecting the above said application it will not curtail the

rights of the complainant to produce the properties and submit the PF before this court. Therefore, it is necessary to proceed the case against the accused without causing any delay. Hence, in order to avoid the delay in the proceeding, it is necessary to allow the application. Accordingly, I proceed to pass the following:

ORDER

The application filed by the Assistant Conservator of Forest Officer is hereby allowed and permission is hereby given to the IO to submit the PF and produce the two cartridges which were used for test firing for the gun.

Call on 07.11.2025

**sd/-
Sr.Civil Judge & JMFC., Ankola**