



2025:KER:12088

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

WEDNESDAY, THE 12TH DAY OF FEBRUARY 2025 / 23RD MAGHA, 1946

CRL.MC NO. 660 OF 2021

CRIME NO.23/2003 OF CHEDALATH FOREST RANGE OFFICE, WAYANAD

IN CC NO.249 OF 2014 OF JUDICIAL MAGISTRATE OF FIRST CLASS -II,

SULTHANBATHERY

PETITIONER/3RD ACCUSED:

SHELLY JOSEPH
AGED 41 YEARS
S/O JOSEPH, MARUTHOLIL, KOLERI.PO

BY ADVS.
RAJESH VIJAYAN
SMT.SIKHA S.NAIR
SMT.PARVATHY PRADEEP

RESPONDENT/STATE:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. PUSHPALATHA. M.K, SR. PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12.02.2025,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:



ORDER

Dated this the 12th day of February, 2025

Petitioner is the 3rd accused in O.R. No.23 of 2003 registered at the Chedleth Forest Range for offences punishable under Sections 27(1), (e), (iii), (iv), 27(1)(d) of the Kerala Forest Act, 1961. The crime is registered on the allegation that the accused, after trespassing into the reserved forest falling within Pathiri South Section on 24.07.2003, cut and removed black wood trees in a Mini Lorry. On submission of final report, the case was taken on the files of the Judicial First Class Magistrate Court-II, Sulthan Bathery as C.C.No.233 of 2011. Out of the 8 accused, A1, A2, A4, A7 and A8 faced trial and were acquitted as per Annexure A3 judgment. The petitioner having failed to participate in the trial, case against him was split up and refiled as C.C.No.249 of 2014. The petitioner is seeking to get the proceedings against him quashed based on the



judgment of acquittal rendered in the case of his co-accused.

2. Learned Counsel for the petitioner drew attention to paragraph nos.19 to 22 of Annexure A3 judgment to contend that the prosecution had miserably failed to produce evidence in substantiation of the charges leveled and thereby, substratum of the prosecution case itself is lost.

3. I heard the learned Public Prosecutor also.

4. As contended, a perusal of Annexure A3 judgment reveals that the mahazar was seen prepared continuously, even though the alleged incidents had taken place at various sites. Moreover, PWs 1, 3 and 4 were not able to identify and connect the logs with the stumps of the trees from which they were removed. The trial court also found that the equipments, with the help of which the accused had allegedly cut the trees, were not produced. These major infirmities prompted the court to reach the conclusion that, no reliable



evidence other than confession statements of the accused persons, was produced by the prosecution.

5. Thus, it is abundantly clear that the substratum of the prosecution case is lost and no purpose will be served by compelling the petitioner to face trial.

For the aforementioned reasons, the Criminal Miscellaneous Case is allowed. All further proceedings in O.R.No.23 of 2003 of Chedleth Forest Range and C.C.No.249 of 2014 on the files of the Judicial First Class Magistrate Court-II, Sulthan Bathery, as against the petitioner, is quashed.

Sd/-

V.G.ARUN

JUDGE



APPENDIX OF CRL.MC 660/2021

PETITIONER ANNEXURES

ANNEXURE-A1

**TRUE COPY OF FORM I UNDER SECTION 36 OF THE
FOREST ACT DATED 26.07.2003.**

ANNEXURE-A2

TRUE COPY OF THE CHARGE SHEET DATED 09.12.2011.

ANNEXURE-A3

**TRUE COPY OF THE JUDGMENT DATED 24.07.2014 IN CC
NO. 233/11 OF JFMC-II, SULTHAN BATHERY.**

TRUE COPY

P.A. TO JUDGE