

Serial No. 83
Regular Cause List

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

....
CRM (M) No. 304/2021
CrI M No. 1082/2021

DFO Pir Panjal Forest Division Petitioner/Appellant(s)

Through: Mr. Mohsin Qadiri, Sr. AAG with
Ms. Maha Majeed, Advocate

Versus

Mohammad Yousuf Dar Respondent(s)

Through: Mr. Mohammad Altaf Khan, Advocate

CORAM:

HON'BLE MR. JUSTICE VINOD CHATTERJI KOUL, JUDGE

ORDER
31.05.2023

1. This petition under Section 482 of the Code of Criminal Procedure has been filed by the petitioner seeking quashment of orders dated 31.07.2021 and 14.08.2021 passed by the Additional District and Sessions Judge, Budgam (for short "Revisional Court") in a Criminal Revision Petition under Section 26 of J&K Forest Act 1987 (for short "*the Act*") bearing Cr.Rev. No.21/R of 2021, titled as *Mohammad Yousuf Dar v. Technical Deputy Director, Forest Protection and another*, on the ground that the impugned orders have been passed in haste manner without proper application of mind and against the provisions of the Section 26, 26(B), 26 (C) and Section 28 of the Act.
2. Learned counsel for petitioner submits that the finding of the revisional court with respect to not waiting till the outcome of the trial

of the criminal proceedings is not correct for the reason that the Authorized Officer is within his powers to confiscate the property when there is a reason to believe that the forest offence has been committed in respect of any forest produce and same has been proved beyond any shadow of doubt. He further submits that his satisfaction is not bound by the outcome of the criminal case.

3. Counsel for respondent during the course of arguments, has produced a copy of the judgment dated 29.01.2020, passed by the court of Munsiff/ Additional Mobile Magistrate, Beerwah (Trial Court) to state that respondent herein has been acquitted by the Trial Court in connection with case FIR No. 61/2015 for offences under section 379 RPC and 6 Forest Act, registered in police station Beerwah. Copy of judgment dated 29.01.2020 is taken on record.
4. I have heard learned counsel for parties and considered the matter.
5. Perusal of judgment dated 29.01.2020 reveals that the prosecution has failed to examine the I.O. in the case and has also failed to prove the guilt of accused with the evidence, which it has adduced. Besides it is also observed by the Trial Court that non-examination of I.O. is fatal for prosecution case because I.O. is material witness for prosecution as well as for defence, because through him a person accused of criminal offence can successfully prove his contention and secure acquittal. It has also been observed by the Trial Court that statements of witnesses have not connected the accused with the commission of offence and that there are contradictions in the statements given by the witnesses and that resultantly prosecution has miserably failed to connected the accused with the commission of offence and as a

consequence of which, accused/respondent has been acquitted of charges leveled against him. In such circumstances, there remains nothing in the instant petition to be adjudicated upon.

6. For the reasons discussed above, the instant petition is without any merit and is, accordingly, dismissed with connected CM(s). Interim direction, if any, shall stand vacated.

7. Copy be sent down.

(Vinod Chatterji Koul)
Judge

Srinagar
31.05.2023
(Qazi Amjad, Secy)