

Re.No. 45258/79-F3,  
Dated: 27-6-1979.

FOREST DEPARTMENT

Office of the Chief Conservator of  
Forests, Andhra Pradesh, Hyderabad.

Sri P.S.Rao, I.F.S.,  
Chief Conservator of Forests.

CIRCULAR NO. 21/79.

Sub:- FOREST OFFENCES- Seizure of Forest Produce and other property which is liable to confiscation-production of property before the authorised officer-jurisdiction of Criminal Court to release-Scope of Section-44 of Andhra Pradesh Forest Act as amended by Act.No. 17 of 1976 Judgements of High Court and Supreme Court -Communicated.

In the case: State of Andhra Pradesh represented by the Forest Range Officer, Mahaboobnagar Vs. P.K.Mohammed and others reported at page: 391 of A.P.Law Journal 1978 (I) it was held that by amending Act No. 17, of 1976, the Legislature wanted to provide and did provide two different forums. The Criminal Court is an existing forum; a new forum namely the 'Authorised Officer' was created by amending the Act; and the seizing officer was given discretion to produce the seized property either before the Court or before the Authorised Officer. It was further held that the Forest Officer (Authorised Officer) is a competent tribunal created by statute to confiscate the property. In case where the property is not produced before the Court but only the persons are produced before it and where the Court is clearly told or informed that the property seized has been produced before the Authorised Officer, the Court can have no powers to pass orders of disposal with respect to the seized property. It was also held that when two jurisdictions are created, one must respect the other.

2. In another case, the above said judgement was followed and the contention of the Forest Department that the Criminal Courts do not have powers to deal with the property seized in connection with the forest offence, which is not produced before them, was upheld. But the owner of the Car, aggrieved by the order of the High Court, filed writ appeal and the order of the Learned Single judge was set-aside. This case: Smt. Haji Begum Vs. State of Andhra Pradesh represented by the Forest Range Officer, Hyd. South Range and another, is reported at page 191 of the AP.Law Journal of 1978-(2). The High Court of Andhra Pradesh has held that production of the seized property before the Forest Officer and production of the accused persons, after arrest, before the Magistrate make the provisions un-workable. It was further held that the adoption of dual proceedings simultaneously makes the provision un-workable. It was also held that such a duality of proceedings results in incongruities. In the result the appeals was allowed.

3. Aggrieved by the aforesaid judgement, the State of Andhra Pradesh preferred an appeal before the Supreme Court of India and the appeal has been allowed. While disposing the Civil Appeal No. 1216/1977 their Lord -Ships Mr.Justice N.L.Untwalia and Mr.Justice P.S.Kailasam, observed that on the facts and circumstances of this case the order of the High Court is not fit to be sustained. The High Court has taken an erroneous view of the report made by the Forest Ranger to the Magistrate while forwarding the accused to him. Their Lord-ships ordered that the proceedings as to the confiscation of the property seized as also the car has got to go on before the Divisional Forest Officer.

Copies of the judgements mentioned above are enclosed herewith for information and guidance of the forest officers. They are requested to go through the judgements. They are requested to go through the judgements and understand their implications. The Divisional Forest Officers are particularly requested to bring the fact to the notice of all Range Officers under their control for correct appreciation of the Law.

The officers are requested acknowledge the receipt of the circular.

Sd/- P. S. Rao,  
Chief Conservator of Forests.