

IN THE COURT OF THE ASSISTANT SESSIONS JUDGE, SONITPUR
AT TEZPUR

PRESENT : Sri P.C. Kalita,
Assistant Sessions Judge,
Sonitpur, Tezpur.

SESSIONS CASE NO. 26 OF 2012

CR Case No. 16 of 2012

Under Section 51 of Wild Life Protection Act

State of Assam

–Versus –

(1) Sri Sunil Jogi Gosai
Son of Somma Jogi Gosai
Vill - Kalabil
PS- Rangapara
Dist – Sonitpur (Assam)

(2) Sri Samel Sanga
Son of Late Gellai Sanga
Vill - Kalabil
PS- Rangapara
Dist – Sonitpur (Assam)

Accused Persons

ADVOCATES APPEARED:

For the State : Sri Mahendra Bora,
Additional P.P.

For accused : Mr. N. M. Goswami
Advocate

Date of evidence : 02– 04-2012, 05-05-2012,
18-06- 2012, 29-08- 2012 &
03-06- 2013

Date of Argument : 22–05–2015

Date of Judgment : 25–05– 2015

J U D G M E N T.

1. The prosecution case, inter-alia, in brief is that the informant J. Baruah, AFS, Range Forest Officer, Kalamati Range, Kalamati has filed this complaint alleging that on 14-12-2011, at about 8-30 a.m., he along with other staff went for patrolling duty to Sonai-Rupai Forest area and at about 3-30 p.m., they faced with a group of miscreants of 4 persons. They had apprehended three persons, out of 4 miscreants and seized 4 Nos. of bicycles, one hand-saw, 3 Nos. dao, one axe, two match boxes and some food articles. After arrest, the miscreants were brought to the Regional Forest office and their statements were recorded. A case has been registered against the accused persons u/s 51 of Wild Life Protection Act. Hence, this complaint.

2. After appearance of the accused persons before the learned lower Court, the learned Judicial Magistrate, 1st class, Tezpur, committed the case to the Court of learned Sessions Judge, Sonitpur, Tezpur. Thereafter, the learned Sessions Judge, Sonitpur, Tezpur transferred the case to this court for trial.

Considering the materials available on case record and relevant documents of case diary, the charge was framed against the accused persons under Section 51 of Wild Life (Protection) Act. Then the contents of charge was read over and explained to the accused persons, to which, they pleaded not guilty and claimed to be tried.

3. To bring home the charges, the prosecution has examined as many as 5 (five) PWs. Statements of accused persons u/s 313 Cr.P.C are recorded. The pleas of the accused persons are of total denial and they have declined to adduce any defence witness.

4. It may be mentioned that accused Aliash Munda absconded at the stage of judgment and the case is filed against him vide order, dated 14-11-2014.

5. **Point for determination:**

Whether the accused persons, on 14-12-2011, at about 8-30 a.m., contravened the Sections 27, 29, 30, 31, 39 r/w 2(15, 16,26,33,35,37) of Wild Life (Protection) Act by entering into the Sonai -Rupai Wild Life Sanctuary and thereby committed an offence punishable u/s 51 of Wild Life (Protection) Act ?

Discussions, Decision and reasons thereof:-

6. I have carefully perused the evidence and the materials available on the case record. Heard arguments of both sides. Now, let us examine the evidence of PWs to decide the case at hand.

7. PW 1, Amrit Doley, Forester I, Kalamati Range, stated that on 14-12-2011, he was serving at Kalamati Range as Forester I. On that day, he went for patrolling duty to the Gabharumukh Forest area, as directed, Forester Dhyan Jyoti Hazarika along with his staff. At about 3 p.m., at Ekajuli area, the accused persons were found cutting wood and when the accused persons made attempt to flee away, they were apprehended. 4 Nos. of bicycles, one axe, 3 Nos. dao, one axe, 2 Nos. match boxes and some food articles with utensils were seized from the possession of the accused persons, which were seized by Dhyan Jyoti Hazarika, in his presence. Ext.1 is seizure list and Ext.1(1) is signature thereon. The accused persons confessed before them to have come there to cut woods. The accused persons could not produce any valid letter entering into the forest area. The seized articles are brought today before the Court. Mat. Ext.1 – 4 Nos. of bicycles, Ext.2 – one hand-saw, Mat. Ext.3 – one axe, Mat. Ext.4 – 3 Nos. of dao, and Mat. Ext.5 – two match boxes.

8. PW-2 Jadav Kalita, Forest Guard, Kalamati Range, stated that on 14-12-2011, he was serving at Kalamati Range and on that day, he went for patrolling duty to Gabharu Forest area along with Dhyan Jyoti Hazarika, Forester -I and with other staff. In the forest area, when they were proceeding upto the drain, they found the accused persons entering into the forest area for

cutting trees. Then, they apprehended the accused persons and one accused person fled away. From the possession of the accused persons, 4 Nos. of bicycle, one hand saw, one axe, 3 Nos. dao and good articles with utensils were seized. The accused persons could not show any valid permission entering into the forest area and they also confessed that they came there for cutting woods. Dhyan Jyoti Hazarika seized the said seizure articles, wherein he put his signature. Ext.1 is seizure list and Ext.1(2) is signature thereon. The area where they were patrolling was under Sonai -Rupai forest area. The accused persons are brought to the Kalamati Range Office.

9. PW-3 Harihar Medhi, Forest Guard, stated that he knows the two accused persons present in the dock. On 14-12-2011, at about 4 p.m., he was doing patrolling duty at Kalamati Range area with Dhyan Jyoti Hazarika, Forester and with other forest guards. At about 3-30 p.m., they found the accused persons on the bank of river Ekajuli. The accused persons were arrested while they were on bicycle carrying food stuff etc. The accused persons entered into the forest area for cutting trees. In-charge Dhyan Jyoti Hazarika seized 4 Nos bicycles, one big hand saw, one axe, 2 match boxes and food articles. Ext.1 is the seizure list and Ext.1(3) is his signature thereon. The accused persons are brought there with seized articles and recorded their statements there. The accused persons could not produce any permission letter entering to there forest area.

10. PW-4 Ramesh Kr. Gogoi, Assistant Conservator of Forest, stated that on 15-12-2011, he was serving as Assistant Conservator of Forest at Western Assam Wild Life Division and on that day, accused Sunil Jogi Gosai @ Munda and Samel Sanga were brought to his office from Kalamati Forest Range Office for recording their statements. Then, their statements were recorded and read over to them, to which the accused persons put their thumb impressions. He gave one certificate on each of the three statements. Ext.6 is the statement made by accused Sunil Jogi Gosai, and Ext.6(1) is certificate with signature, and Ext.7 is signature Alias Munda, and Ext.7(1) is his certificate with signature. Ext.8 is statement of Samel Sarma and Ext.8(1) is certificate with signature.

11. PW-5 Dhyan Jyoti Hazarika, Forester Grade – I, stated that on 14-12-2011, he was serving as Forester I, at Sonai- Rupai Forest area. On that day, he went for patrolling duty to Gabharu Forest area along with staff as directed by the DFO. At about 8-30 a.m., they went towards Ekajuli Forest area and at about 3-30 p.m., they found some miscreants there and out of four, three were apprehended and one had fled away. They apprehended the accused Alias Munda, Sunil Jogi Gosai and Samel Sanga. Being asked, the accused persons confessed that they came there for cutting tress and they could not show any permission entering there. 4 Nos. bicycles, one hand-saw, one axe, 3 Nos. dao, 2 match boxes and some food articles were seized from them. Ext.1(4) is his signature on Ext.1. Then, the accused persons are forwarded to Dolabari Wild Life Division, where their statements were recorded. On the basis of the statement made by the accused persons, he submitted the Offence Report against the accused persons, stated above. Ext.9 is Offence report and Ext.9(1) is the contents of the offence report. Ext.9(2) is signature thereon. The accused persons present today in the dock are the accused persons, who were apprehended on the date of occurrence.

12. Here, Dhyan Jyoti Hazarika (PW-5), Forester Grade – I, is the prime witness –cum- complainant in this case. His deposition is that on 14-12-2011, he along with his staff went for patrolling duty at about 8-30 a.m. to the forest area of Ekajuli range and at about 3-30 p.m., they found the three accused persons in the forest area and then apprehended the accused persons, namely, Sunil Jogigosai and Samel Sanga. The accused persons could not produce any licence / permission entering into the forest area. Four Nos. of bicycles, one hand saw, one axe, 3 Nos. dao, 2 Nos. match boxes and some utensils were also seized from the possession of the accused persons. He proved the Offence Report as Ext.9.

PW-1 Amrit Doley, Forester I, PW-2 Jadav Kalita, Forest guard, PW-3 Harihar Medhi, forest guard accompanied Dhyan Jyoti Hazarika (PW-5) on the date of occurrence at the time of patrolling duty. All these three witnesses have fully corroborated the statements of PW-5 by saying in the same tune that

all the accused persons were found in the forest area and the articles, aforementioned, were seized from their possession.

PW-1 further stated that he brought the seized articles today before the Court. He proved the said 4 Nos. of bicycles as Mat.Ext.1, the hand saw as Mat.Ext.2 and the axe as Mat.Ext.3 and 3 Nos. of dao as Mat.Ext.4 and 2 Nos. match boxes as Mat.Ext.5.

PW-2 has exhibited the seizure list.

PW-3 is also a seizure witness.

PW-4 (Asstt. Conservator of forest) has proved the statement of Sunil Jogi Gosai as Ext.6 where Ext.6(1) is his signature. Ext.8 is the statement Samel Sanga and Ext.8(1) is his certificate with his signature.

From the evidence on record, it is, thus, seen that on the date of occurrence, i.e. 14-12-2011, the accused persons were apprehended in the Ekajuli forest range and some articles were also seized from their possession. But the accused persons could not show any permission / licence from any competent authority authorizing them to enter into the forest area. Thus, the accused persons have violated the provisions of Wild Life Protection Act.

From the evidence of PWs 1, 2, 3 and 4, it is clearly established that the accused persons have unlawfully entered into the Sonai-Rupai forest Range without having a permit. These PWs are subjected to lengthy cross-examination by the defence, but the material portion of their evidence remained intact.

13. In view of the above discussions and considering all aspects, I hold that the prosecution has proved the case u/s 51 of the Wild Life Protection Act, 1972 against the accused persons, beyond all reasonable doubt. Hence, I convict them under the said section of law.

14. Considering the gravity of the offence, it is held that the accused persons are not entitled to get the benefit of the provision of law.

15. I have heard the accused /convicts on the point of sentence in view of the provision of Section 235(2) of CrPC. The accused /convicts submit that they are daily labourers by occupation having their wives, minor children and also old ailing parents. So, they prayed to treat them leniently.

16. Considering the facts and circumstances of the case and also considering the circumstances of the accused persons, I am of the considered view is that the imposition of minimum sentence will meet the ends of justice. Accordingly, I sentence the accused persons to suffer SI for 3 (three) months each.

17. The period of detention already undergone by the accused persons shall stand set off in view of the provisions of Section 428 of CrPC.

18. Furnish a free copy of the judgment to the accused/convicts u/s 363 (1) of CrPC.

19. Send a copy of the judgment to the learned District Magistrate, Sonitpur, Tezpur, as per Section 365 of CrPC.

The case is disposed of accordingly.

Given under my hand and seal of this Court on this day, the 25th day of May, 2015.

P.C. Kalita)

Assistant Sessions Judge,
Sonitpur : Tezpur.

Dictated and corrected by me.

(P.C. Kalita)

Assistant Sessions Judge,
Sonitpur : Tezpur.

Typed and transcribed by me :

(J. K Muru), Steno.

A P P E N D I X**Prosecution witnesses :**

PW-1 : Sri Amrit Doley
 PW-2 : Sri Jadav Kalita
 PW-3 : Sri Harihar Medhi
 PW-4 : Sri Ramesh Kr. Gogoi
 PW-5 : Sri Dhyan Jyoti Hazarika

Defence Witness : Nil

Court Witness : Nil

Prosecution Exhibits :

Ext.1 : Seizure list
 Ext.6 : statement
 Ext.7 : statement
 Ext.8 : statement
 Ext.9 : Offence Report

Material Exhibits :

Mat Ext.2 : 4 Nos. of bicycle
 Mat Ext.3 : Axe
 Mat Ext.4 : 3 Nos. dao
 Mat Ext.5 : 2 Nos. match boxes

Defence Exhibit : Nil

Court Exhibit : Nil

Exhibit produced by witness : Nil

(P.C. Kalita)
 Assistant Sessions Judge,
 Sonitpur : Tezpur.