

**IN THE COURT OF THE SESSIONS JUDGE SONITPUR:: TEZPUR**

**SESSION CASE NO. 08 of 2019**

Under section 51 of WL (P) Act  
(Arising out of C. R Case No. 911 of 2018)

**State of Assam**

**-Vs-**

Sri Madan Tirki @ Madan Mura.....Accused Person

**Present: Smti I. Barman,  
Sessions Judge,  
Sonitpur :Sonitpur.**

For the State : Mr. M.C. Baruah, Public Prosecution

For the accused : S Begum, Advocate.

Date of Argument : **09-02-2021**

Date of Judgment : **17-02-2021**

**JUDGMENT**

1. The prosecution case against the accused person as unfurled in the complaint, in brief is that on 10-11-2018, at around 1.00 AM when the Assistant conservator of Forest, Western Assam Wildlife Division, Dolabari, Tezpur with staff of Kalamati Range Office, were on patrolling duty in Sambari Forest Camp area inside Sonai Rupai Wildlife Sanctuary and Satellite Core of Nameri Tiger Reserve, at around 2.00 AM, noticed some light in Sambari area. They following the source of light, waited in a place and at about 3.00 AM saw two persons. Seeing them the said two persons tried to flee away, however they could apprehend one person and found a handmade gun, one khukri and a torch light from his possession, while the other person fled away taking advantage of darkness. They brought the apprehended person with the articles to Kalamati Range Office. During interrogation, the person identifying himself as Madan Tirki stated that he along with the other person entered inside the Sanctuary with weapon with intent to

hunting wild animal. The complaint is filed against Madan Tirki for entering into the Reserve Forest area with weapons.

2. After completion of enquiry, Assistant Conservator of Forest, Western Assam Wildlife Division, submitted offence report against the accused and laid the same before the learned CJM, Sonitpur, Tezpur for trial. Since the offence is triable by the court of Sessions, the same was committed to the Court of Sessions after furnishing the relevant copies.

3. On appearance of the accused and after hearing the learned advocates for both the sides, charge under Section 51 of WL (P) Act, was framed against the accused by the learned Addl. Sessions Judge, FTC, Tezpur, Sonitpur. The above offense was read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

4. To substantiate the case, prosecution examined as many as three witnesses only. In statement recorded u/s 313 Cr.P.C, the accused denied the allegations levelled against him and examined none. Later on the case was withdrawn to this court.

5. I have heard the argument of learned counsel of both sides and also have gone through the evidence on record..

6. The point for decision in this case is that -

**Whether the accused on 10-11-2018 at around 3.30 AM illegally entered into Sonai Rupai Wild Life Sanctuary without any authority and the accused was apprehended by the forest official inside the sanctuary along with weapons i.e. one handmade gun, one khukri with cover and one torchlight and caused destruction/damage of the wildlife and thereby committed an offence u/s 27/31 of WL(P) Act punishable under Section 51(1) of Wild Life (P) Act?**

**Discussion, Decisions and reasons thereof :**

7. Coming to the charge framed against the accused named Sri Madan Tirki @ Madan Mura, this court finds that the charges under section-27/31 R/W Section-51 of Wild Life (Protection) Act, 1972 framed against the accused. Section-27 of Wild Life (Protection) Act, 1972 bars the illegal entry of a person within the territorial limits of a Sanctuary without having a permit granted under section-28 of the act. Similarly, Section-31 of Wild Life (Protection) Act, 1972 prohibits the entry into the sanctuary with weapon and section-51(1) of Wild Life (Protection) Act provides penalty for breach of any rule or provision of the act or breach of any condition of any licence of any permit and in the event of any breach of any rule or provision the person is liable to be punished with imprisonment for a term which may extend to 3 years or with fine which may extend to twenty-five thousand rupees or with both.

8. The prime accusations levelled against the accused person named Sri Madan Tirki @ Madan Mura as disclosed from the offence report appears to be that on 10.11.2018 at around 3 AM, the accused was apprehended with handmade gun, one khukri and a torch light from Sonai Rupai Wildlife Sanctuary and Satellite Core of Nameri Tiger Reserve. Thereafter, the accused was brought to Kalamati Range Office and during interrogation it divulges that the accused person with another person entered inside the Sanctuary along with weapons with intend to hunt wild animal. The prime accusation as unveil from the complaint is that accused Sri Madan Tirki @ Madan Mura entered inside the reserve forest area carrying weapons with intend to stalk wild animal.

9. We have discussed in the foregoing discussion that section-27 of the act says about the illegal access to reserve forest area without having permit and section-31 of the act prohibits entry of a person at reserve forest area along with weapons. Hence, the prosecution has got the burden of prove to establish the fact that on the date of alleged incident the accused Sri Madan Tirki @ Madan Mura had entered into

the reserve forest area of Sonai Rupai Wildlife Sanctuary and Satellite Core of Nameri Tiger Reserve along with weapon.

**10.** It is worth mentioning that, the criminal jurisprudence of the country rests on the principle of proving the guilt of the accused beyond all reasonable doubt by the prosecution. There must not be any shadow of doubt on the truthfulness of the prosecution case. This being the cardinal principle of criminal jurisprudence, we must scrutinize the evidences produced by the prosecution from all possible corners and must also test the veracity of the witnesses. If the witnesses are found as wholly reliable on the point of guilt of the accused then only the accused can be held as guilty of the alleged crime.

**11.** Now, arriving to appreciation part, this court has painstakingly perused the evidences on record in the backdrop of indictment lodged against the accused and it finds that the prosecution side has examined three numbers of witnesses out of which PW-1, Sri Dipankar Tamuli supported and corroborated the entire prosecution story by way of testifying that on the day of incident at around 1.00 AM, he along with ACF Khanindra Kalita, Forester-1 Kajirul Islam and others went for patrolling inside the sanctuary towards Sambari Camp. In course of patrolling they noticing focus of light divided the team into two groups and proceeded forward following the focus of light and cordoned the area. Then they noticed two persons inside the forest but seeing them the said two persons fled away, however they could apprehend one of them. On query, the person identified himself as Madan Tirki. They found a handmade gun, a khukri with cover and a torch light from his possession. The articles were seized at the place of occurrence and brought to Kalamati Range Office along with the accused. He proved the seizure list as Ext.1 and his signature as Ext.1 (1). He also proved the seized khukri as M.Ext.1 and the torch light as M.Ext.2.

During cross, he stated the house of the accused is about 4 kms away from the Sanctuary. He denied the suggestion that the accused was not found inside the forest area, he only came out of his house to

chase away wild animals and there was no intention on his part to cause harm to any animal.

**12.** PW-2, Bhupen Mili, the Muster Roll Worker under Kalamati Range deposed that on the day of incident at around 2.00 AM they went for patrolling along with ACF and others. During patrolling duty they noticing focus of light inside the forest, cordoned the area. At that time they noticed two persons coming from the forest but seeing them, they tried to flee away, however they could apprehend one of them. On query the person identified himself as Madan Tirki. They found a handmade gun, a khukri with cover and a torch light from his possession. PW 2 proved his signature in the seizure list as Ext.1 (2). He also identified the seized Khukri and the torch light. PW-2 in his cross-examination testified that there are no fencing around the Sanctuary and near the boundary of Sanctuary, there are villages inhabited by people. He stated that the house of the accused is about 1 km away from the place where he was apprehended. He stated that sometimes wild animals coming out from the sanctuary used to move near the villages. In that case the forest personnel used to chase back the wild animals. He denied the suggestion that the seized materials were not found in the possession of the accused.

**13.** PW-3, Sri Khanindra Kalita being the informant of this case deposed before this court that on the day of incident he along with his staff went for patrolling inside Sonai Rupai Wildlife Sanctuary near Sambari Camp. During patrolling, they noticed focus of torchlight inside the Forest. Suspecting existence of persons inside the forest, they divided their team into two groups for ambush and cordoned the area. At that time they noticed two persons. They chased the two persons and could apprehend one of them along with one handmade gun, a khukri with cover and one torch light. The apprehended person identified himself as Madan Tirki @ Madan Mura who admitted that they came for hunting inside the jungle and three days ago also he killed a barking deer and a porcupine. He seized the articles at the spot and

brought the accused along with the articles to the Range Office. The said person disclosed that the name of his associate was Baishya Boro and they planned for hunting during day time. Accordingly, the accused was arrested and he lodged the complaint. He proved his signature in the seizure list as Ext.1 (3). Thereafter, he recorded the statement of witnesses and the accused and after completion of enquiry he submitted the offence report vide Ext.4, the statement of accused Madan Tirki as Ext.5, the statement of witness Dipankar Tanti as Ext.6, the statement of witness Bhupen Mili as Ext.7 and the sketch map prepared by Tajimul Islam as Ext.8.

During cross, PW-3 stated that the boundary of wildlife Sanctuary is not protected by fencing and there are villages near the Sanctuary. The wild animal might have come out of the sanctuary and enter into the villages. In the event of noticing wildlife inside the villages, the villagers used to co-operate them in chasing away the animals from the village. He denied the suggestion of the defence that accused came out of his house at night in search of his cattle and they due to mistake apprehended the accused. He also denied the suggestion that as the accused is a resident of nearby forest area; he used to keep sharp weapon with him for his own protection. He admitted that on the day of occurrence no animal was killed by the accused.

**14.** To sum up the evidences presented before this court by PW-1, PW-2 and PW-3, it disclosed before this court that all three witnesses in their evidences firmly corroborated and supported one fact that on the date of alleged incident, accused Sri Madan Tirki @ Madan was apprehended from inside the forest along with handmade gun, one khukri and a torch light in his possession. Ext-1 appears to be the seizure list through which the aforesaid articles were seized. M.Ext-1 and M.Ext-2 are the seized Khukuri and torch light. The evidences of all three witnesses categorically disclosed the fact of recovery the articles as alleged in the complaint by the complainant. PW-3 exhibited the offence report to be Ext-4 and the statement accused Sri Madan Tirki @

Madan to be Ext-5. Ext-6 and Ext-7 are the statements of PW 1 Sri Dipankar Tamuli and PW 2 Sri Bhupen Mili and the sketch map of the place of occurrence to be Ext-8.

**15.** The defence side during the cross-examination failed to bring out any sort of material contradictions upon which the evidences presented by all three witnesses may be disbelieved. During the cross-examination of PW-1, the defence side put a suggestion that the accused came out of his house to chase away wild animals and there was no intention on his part to cause harm to any animal. The suggestion of the defence side makes it categorical that on the date of alleged incident, the accused had entered the forest area although there was a claim that he came out to chase the wild animal. The contention of the defence side appears to be not trustworthy in respect of the fact that the accused has come out to chase the wild animal, as being a man of ordinary prudent, it is quite not believable that a person will chase the wild animal by entering into a Core Reserve Area having weapon like handmade gun, khukuri and torch light at 1 AM to 3 AM. Moreover, the defence side although put forwarded the suggestion of chasing the wild animal by the accused but the same was not substantiated by adducing any sort of evidence. On the other hand during cross of PW 3 defence suggested another story that on the night he came out of the house in search of his cattle and he possessed the weapon for his self protection. The suggestions and plea of the defence side rather established the fact of entering into the reserve forest area by the accused on the date of alleged incident.

**16.** The evidences presented by PW-1, PW-2 and PW-3 also make it crystal clear that on the date of alleged incident the accused had entered into the reserve forest area of Sonai Rupai Wildlife Sanctuary with illegal weapons in his hand without having any permit which proves and establish the fact of entering into a reserve forest area in contravention with the settled provisions of Wild Life Protection Act. The fact of possessing handmade gun, khukuri and torch light by the

accused which discloses from the evidences on record, proved and established the intention of the accused and the evidences of the prosecution makes it clear that the accused failed to prove anything upon which this court may presumed the presence of the accused inside the forest area to be blameless.

**17.** Therefore, in the light of all the aforesaid discussion, this court finds that the prosecution side by adducing ocular as well as documentary forms of evidences establishes and proves the fact of entering into a reserve forest area along with the weapons by the accused person and that appears to be in contravention of the provisions of Section-27 and 31 of the Wild Life (Protection) Act which is punishable under section-51(1) of Wild Life (Protection) Act. The evidences presented before this court appears to be coherent, supportive and trustworthy in nature and those are conclusive, clear and cogent upon which this court finds the accused guilty of commission of offence punishable under section-27/31 of Wild Life (Protection) Act, 1972, which are punishable under section-51(1) of the Act.

**18.** Accordingly, the accused Sri Madan Tirki alias Mura is held guilty of the offence under section 51 (1) of the Wildlife Protection Act.

**19.** Section 51 of the Act prohibits the applicability of section- 360 of the Cr.P.C or the Probation of Offenders Act to an accused who is not below the age of eighteen years. Hence, the same is not considered.

**20.** The accused person is heard on the point of sentence and his statement is recorded in break up page and positioned on record. He stated that he has to look after his wife and four children including school going children and he is the only bread earner of his family. Hence prayed for leniency.

**21.** Considering all the aspects, the accused/convict Sri Madan Tirki alias Mura is sentenced to undergo S.I. for two months and to pay a fine of Rs. 4,000/- (Rupees four thousand) only, in default, S.I. for two

weeks in committing the offence punishable under section 51 (1) of the Wildlife Protection Act, 1972.

**22.** The period of detention undergone by the accused shall be set off as per provision of section 428 Cr.P.C.

**23.** Let the seized items be forfeited to the State in due course.

**24.** Judgement is pronounced and delivered in open court under the Seal and signature of this Court on the **17<sup>th</sup> day of February, 2021.**

(I.Barman)  
Sessions Judge,  
Sonitpur, Tezpur.

Dictated and corrected by me.

(I.Barman)  
Sessions Judge,  
Sonitpur, Tezpur

**APPENDIX**

**1. Witnesses for Prosecution:-**

PW-1 :- Sri Dipankar Tamuli

PW-2 :- Sri Bhupen Mili

PW-3 :- Sri Khanindra Kalita

**2. Witnesses for Defence: NIL**

**3. Court Witnesses: NIL**

**4. Prosecution Exhibits:**

Ext-1 :- Seizure List

Ext-1(1) :- Signature of PW-1

Ext-1(2) :- Signature of PW-2

Ext-1(3) :- Signature of PW-3

Ext-3 :- Complaint

Ext-3(1) :- Signature of PW-3

Ext-4 :- Offence Report

Ext-4(1) to Ext-4(4) :- Signature of PW-3

Ext-5 :- Statement of accused Madan Tirky

Ext-5(1) to Ext-5(3) :- Signatures of PW-3

Ext-6 :- Statement of Sri Dipankar Tamuli

Ext-6(2) to Ext-6(3) :- Signatures of PW-3

Ext-7 :- Statement of Sri Bhupen Mili (PW-2)

Ext-7(1) to Ext-7(3) :- Signatures of PW-3

Ext-8 :- Sketch Map prepared by Tajirul Islam,  
Forester-I

Ext-8(1) :- Signature of Tajirul Islam, Forester-I

**5. Defence Exhibits: NIL**

**6. Material Exhibits:**

M. Ext-1 :- Khukuri

M. Ext-2 :- Torch Light

**(I.Barman)  
Sessions Judge,  
Sonitpur, Tezpur.**