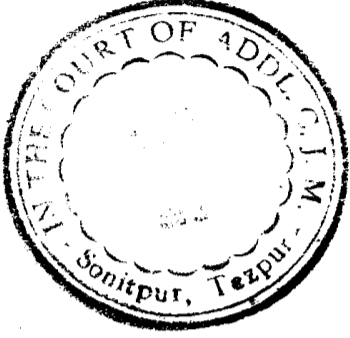


In the court of the Addl CJM Sonitpur, Tezpur

Present- Smti Bobita Kshetry
Addl. CJM, Sonitpur, Tezpur.

Case no- CR No 116/05
U/S 27,29,50,51 of the Wildlife Protection Act, 1972 and amended
Act,1991



State

vs

Sajiram Narah & Kiron Mili
.....accused persons.

Date of evidence – 14.3.11, 14.8.12, 1.2.13
Date of argument – 17.2.14
Date of judgment- 1.3.14

APPEARANCE

For the prosecution- Mr. M.Hussain, Ld. APP.
For the accused persons- Mr. B.Nath , Ld. Advocate.

JUDGMENT

1. The material facts leading to the proceeding as stated in the complaint and the allegations on the basis of which the offence report was filed, briefly stated , is that on 24.4.2005 at around 4.00 a.m, while Mr. Abdul Aziz, Deputy Ranger of Nameri Wild-Life Range was on petrolling duty alongwith other staffs on the river bank of Jia – Bharali River, then they saw some miscreants illegally fishing in the said river at Upperdiki, Baithakata A.P.camp area inside the Nameri National Park. On seeing the petrolling party, some miscreants fled away. But, two of them (accused-Sajiram Narah & Kiron Mili) were nabbed by them as they were doing illegal fishing by using drift net in the river. The accused persons were apprehended and the drift net (Fasijal 2 nos) alongwith 12 nos of fishes (damaged) weighting 10 kgs (approx) were seized from them. The accused persons could not produce any valid documents . They were brought to the Nameri Wild-Life Range, Potasali and the case was registered against them. After completion of investigation, offence report was submitted against the accused persons for violation of sections 27,29,50,51 of Wildlife (Protection) Act.

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2. The accused persons appeared on receiving the summons and the case proceeded as warrant procedure case. After perusal of the evidences on the record, charges were framed against the accused persons u/s 27,29,50,51 of the Wild Life (Protection) Act, 1972 and the same were read over and explained to them to which they pleaded not guilty and claimed to be tried.

3. During trial, the prosecution side examined 3(three) nos of pws while defence examined none. The evidence of the complainant had to be dispensed with as he expired. Statements of the accused persons u/s 313 Crpc have been recorded. They admitted the offence and declined to adduce any evidence.

4. POINTS FOR DETERMINATION:-

1. Whether the accused persons on 24.4.05 at 4 a.m , illegally entered inside Nameri National Park in violation of provision of section 27 of Wild Life (P) Act and removed the wildlife from the River Jia – Bharali without permit in violation of section 29 of Wild Life (P) Act?
2. Whether the accused persons on the relevant date entered inside the sanctuary and were found fishing in the River Jia-Bharali and were caught with fish and fishing –net and are liable to be punished u/s 51 of Wild Life (P) Act?

5. DISCUSSION, DISCUSSION AND REASONS THEREOF:-

The witness, pw-1 Sri Mahendra Saikia is the Forester-I. He deposed that in the year 2005, he was working as Forester -I in the Nameri National Park. He stated that on 24.4.05, he went with the Deputy Ranger on petrolling duty. While on duty at 4 a.m , they saw five miscreants fishing in the River Jia Bharali. They caught the two accused persons but the others fled away. On enquiry, the accused persons could not show them any valid permit/documents . Then, the Deputy Ranger seized the fishes and the fishing –net from the accused persons. He brought the accused persons to the Range Office. Pw-1 recorded the statements of the accused persons. The offence-report was submitted by the Deputy Ranger, Abdul Aziz . Ext-1 is the offence-report and ext-1 (1) is his signature, which is known to pw-1. Exts-2&3 are the statements of the accused persons. Exts-2(1) & 3(1) are the signatures of the accused persons and Exts- 2 (2) & 3 (2) are the signatures of pw-1. Ext-4 is the seizure-list and Ext- 4(1) is his signature. Exts- 5 is the Forwarding of the Range-Officer and Ext-5 (1) is his signature. Ext-6 is the forwarding of the Range Officer to the Ld Chief Judicial Magistrate, Sonitpur, Tezpur and ext- 6(1) is the signature of the Range Officer.

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The witness, pw-2 Sri Bipin Boro is the Game-watcher. He was on petrolling duty on the date of occurrence alongwith the forest-guards on the bank of the River Jia-Bharalu . Then, they saw the accused persons near the river and caught them. Some of the miscreants fled away. The accused persons were brought to the Range office. Pw-1 recorded their statements. He put his signatures on the statements as witness. Exts- 2 (2) & 3 (3) are the signatures of pw-2. They also seized the fishes and fishing-nets. Ext-4 is the seizure-list and exts-4 (4) is his signature.


The witness, pw-3 Sri Biren Barua is the Forester-I. He deposed that on the date of occurrence, he was with other forest staffs on petrolling duty. Then, they saw 5 persons fishing in the River Jia Bharali inside the Nameri National Park. The accused persons were caught from there and they were brought to the Range Office. Their statements were recorded in his presence. Other miscreants fled away. Exts- 2(3) and 3(4) are his signatures on the statements of the accused persons. Pw-3 further stated that the fishing net and the fishes were seized from the accused persons. Ext-4 is the seizure- list and ext-4 (5) is his signature.

6. I have heard the Learned Counsels for both the sides and perused the material evidences on record.

7. In this instant case, charge was framed u/s 51 of Wild Life (P) Act in violation of section 27/29/50 of the Wild Life (P) Act on the allegation that the accused persons trespassed into the Wild Life Protection area and were caught while illegally fishing by using the drift -net.

8. It is not in dispute that entry of a person other than one who is permitted by Section 27 of WL(P) Act is an offence punishable u/s 51 of the said Act. This section comes into play only when a person is found guilty of an offence committed by him.

9. On perusal of the evidences of pws-1 and 2, it appears clearly that the accused persons without any permission of the Chief Wild Life Warden or the authorised officer entered in the inside the Nameri National Park and removed the wildlife from the sanctuary by fishing illegally in the River Jia-Bharali. Pws-1 to 3, who were on petrolling duty caught the accused persons red-handed alongwith the drift -net and 12 nos of fishes (10 kg approx) and seized the same. So, there is clear allegation that the accused persons were found illegally fishing inside the sanctuary without the permission of the authorized officials and the drift-net as well as the fishes were seized from them.


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Moreover, the accused persons have admitted the offence in their statements recorded u/s 313 Crpc. Admitted facts need not be proved. Hence, the the accused persons have violated the provisions of section 27/29 of the Wild Life (Protection) Act by entering in side the sanctuary for illegal fishing.

10. Upon meticulous evaluation of the evidence on record, I am of the considered view that the prosecution has totally succeeded to prove the case against the accused persons beyond all reasonable doubt. Hence, the accused persons – Sajiram Narah and Kiran Mili are held guilty of the offences u/s 27/29/50/51 of the Wild Life (Protection) Act and they are , therefore, convicted.

11. Heard the accused persons on the point of sentence. They have stated that they are the sole earning members of the family and their families depend upon them. Hence, they have prayed for leniency in punishment.

12. In view of the nature of the offence, I am of the opinion that the accused persons should not get the benefit of Probation of Offender's Act. However, considering the prayer of the accused persons and to meet the ends of justice , I punish them leniently.

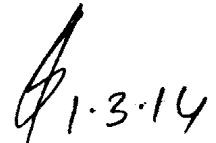
13. Hence, the accused persons are sentenced to pay the fine of Rs 2,500/- each i/d to S.I for three (3) months each for the offences under section 27/29/50/51 of the Wild Life Protection Act.

The case is disposed of on contest.

Furnish the free copy of the judgments to the accused persons.

Given under the hand and seal of this court on the 1st day of March,

2014.


1.3.14
Smti Bobita Kshetry
Addl CJM, Tezpur.
Addl. Chief Judicial Magistrate
Bokitpur, Tezpur