

**CAUSE TITLE**

**Sessions Case No.181(NL)/2016.**

Informant : Sri Purna Kt Saikia.

Accused : Sri Jugananda Sonowal.

**ADVOCATES :**

For the State: Mr J. Saikia, learned Public Prosecutor.

For the Defence: Mr R. Gogoi, learned Advocate.

**IN THE COURT OF THE SESSIONS JUDGE, LAKHIMPUR,  
AT NORTH LAKHIMPUR.**

Present: Smt S.P. Khaund, (M.A. Economics, L.L.B.),  
Sessions Judge,  
Lakhimpur, North Lakhimpur.

Sessions Case No.181(NL)/2016  
CR Case No.261/2011

State of Assam

Vs

Sri Jugananda Sonowal

Charge : Under Sections 24/25/41 of the Assam Forest Regulation Act,  
1891 and under Section 51 of the Wild Life (Protection) Act.

Date of evidence on : 04/12/2017, 11/04/2018, 12/06/2018 and  
20/09/2018.

Date of argument : 09/02/2021 and 24/02/2021.

Date of judgment : 10/03/2021.

**J U D G M E N T**

1) A brief account of this case is that on 30/12/2011, at about 4 AM, Jugananda Sonowal (hereinafter the accused) trespassed into the Dolung Forest Reserve and tried to remove trees from the reserve in a pickup vehicle by felling trees and causing destruction of forest produce. The vehicle of Max Pickup make was halted by the forest personnel and the logs removed from the forest reserve area were found in the vehicle. When the accused was asked to show his pass, he

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could not produce the same and the accused tried to escape by stating them he was carrying the logs on behalf of another person. As the accused was found acting in contravention with the Forest Act and Wild Life (Protection) Act, he was apprehended and the vehicle along with the logs were seized from his possession. After investigation offence report was submitted against the accused under Sections 24, 25, 40, 41, 49 and 60 of the Assam Forest Regulation Act and under Sections 2, 9, 11, 50 and 51 of the Wild Life (Protection) Act.

2) This case proceeded in the Court of the learned Chief Judicial Magistrate, Lakhimpur, North Lakhimpur at the stage of Judgment. This case was committed to the Court vide order dated 18/11/2016 as this case is also under the Wile Life (Protection) Act.

3) After hearing both the sides, a formal charge under Sections 24/25/41 of the Assam Forest Regulation Act, 1891 and under Section 51 of the Wild Life (Protection) Act was framed and read over and explained to the accused. The accused abjured his guilt and claimed innocence.

4) To substantiate the stance, the prosecution adduced the evidence of 3 witnesses and exhibited various documents. The defence cross-examined the witnesses to refute the charges.

#### **Submissions:**

5) The learned defence counsel laid stress in his argument that FIR must be lodged by the Director under Section 55 of the Wild Life (Protection) Act (WP Act in short). In the instant case, the Forest Guard

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lodged the FIR and he was not authorized to lodge the same. The seizure list, Ext.1 was prepared in the office and not in the place of occurrence. The seizure list was not prepared as per section 100 CrPC. The timber alleged to have been seized in connection with this case was not produced to be exhibited in the Court violating Section 102 CrPC. The timber was disposed of without permission from this Court. There is no sketch map or photograph. The jurisdiction of this Court was questioned by the learned defence counsel who submitted that the place of occurrence is under Tarioni and Dolung jurisdiction, but not under the jurisdiction of Lakhimpur rendering the seizure of the alleged forest produce unauthorized and illegal. The remaining part of the argument will be discussed at the appropriate stage, to avoid prolixity.

**Points For Determination:**

6) On the back drop of the rival contentions, urged at the bar the following points are apposite for proper adjudication of this case.

i) Whether on 30/12/2011, at about 4 AM, the accused trespassed into Dolung Forest Reserve at Tarioni and caused damage by felling timber and trees from the forest reserve?

ii) Whether at the same time and place, the accused felled standing trees and removed forest produce?

iii) Whether at the same time and place, the accused transported forest produce, i.e. timber from the aforementioned reserve forest without permit?

iv) Whether at the same time and place, the accused caused

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destruction of the inhabitant area of animal of the said reserve forest by felling trees and thus acted in contravention to the provisions under the Wild Life (Protection) Act?

**Decision thereon and the reasons for the decision:**

7) The Forest Guard, Sri Purna Kanta Saikia testified as PW-1 that about 7 years ago, one day, he along with some of the forest staff and the Beat Officer, conducted search operation at Tarioni and seized one white coloured Bolero which was loaded with timber. The vehicle was brought to the North Lakhimpur Forest Range Office. Ext.1 is the seizure list and Ext.1(1) is his signature as a witness. He seized 128 pieces of timber. He seized the vehicle and the registration number of the vehicle was AS07C0913 and the vehicle was driven by Jugananda Sonowal (the accused) of No.2 Hensura Gaon under Boginadi PS. The accused person was unable to produce proper documents of the seized timber and the seized timber was disposed of after permission from this Court.

8) In his cross-examination, he testified that he caught the accused red handed. The articles were not produced before this Court and they did not take any steps to dispose of the seized articles. The seized vehicle was a white coloured TATA Mobile. He admitted that he was not given any authorization from the North Lakhimpur Forest Range when he went for duty at Tarioni Forest Beat area. They went to the Forest Beat area without informing the forest officials of the Tarioni Forest Beat Office. They prepared the seizure list at North Lakhimpur Forest Range Office and not in the place of occurrence.

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9) Sri Taranath Tamuli testified as PW-2 that the incident occurred in the year 2011. He could not recall the date of the incident. He further testified that at the time of incident, he was working as a Forest Guard under the North Lakhimpur Forest Division with the Forest Mobile Party. On that fateful day, the Beat Officer of Tarioni Forest Beat, Sri Tileswar Das informed their officer, Sri Sankha Nath Pegu that a truck had trespassed in the forest area at Tarioni. Then he along with Forest Officer, Sri Sankha Nath Pegu (PW-3) and Sri Purna Kanta Saikia (PW-1) went to Tarioni Forest Beat in a vehicle. They entered into the forest reserve and captured one TATA Mobile Max Pickup Van loaded with sawn timber. They did not find any person. Then they took the Mobile Pickup Van loaded with sawn timber to the North Lakhimpur Forest Range Office. There were 128 sawn timber in the Mobile Pickup Van. The registration number of the TATA Mobile Pickup Van was AS07C0913. The vehicle along with the timber was seized by Sankha Nath Pegu, Forester Grade-1 (PW-3), in his presence and he affixed his signature on the seizure list. Ext.1 is the seizure list and Ext.1(2) is his signature.

10) Although the incident described by PW-1 is similar to incident described by PW-2, the major contradiction in this case is that PW-2 failed to identify the accused. His evidence depicts that the accused was not present when they seized the vehicle. The evidence of PW-1 is also not clear if the accused was present in the vehicle when the same was seized. There is no evidence on record how a case was made out against the accused, whether he is the owner of the vehicle? The evidence of PW-1 depicts that the accused failed to produce the proper

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permit, but at the same time it is not clear from the evidence of PW-1 and PW-2 whether the vehicle was driven by the accused at the time of the incident. Similarly, the evidence of Sankha Nath Pegu also does not point an accusing finger towards the accused. He is the Forester Grade-1 and he testified as PW.-3. His evidence depicts that he did not find any people in the vehicle. PW-3 testified that he was working as Forester Grade-1 at North Lakhimpur Range Office since 1998. On receiving a secret information of some miscreants entering into the Tarinoi Reserve Forest on 30/12/2011, at about 4 AM, he headed to the Tarioni Beat Office, accompanied by forest personnel. Sri Pranjal Kakati, the Ranger of North Lakhimpur Range Office also went along with him. Thereafter they entered into the Dolung Reserve Forest and found one Max Pickup Van in the dense forest loaded with 'Lali Poma Hand Sawn' timber. They did not find any man in the vehicle or nearby the vehicle. Thereafter they went to meet the people residing around the forest reserve and they came to know that the owner of the vehicle was Jugananda Sonowal (the accused). The local people called the accused to the place of occurrence and the accused admitted that he was the owner of the vehicle. The accused also told that his vehicle was hired at that time.

11) PW-3 further testified that he seized the Max Pickup van whose registration number was AS07C0913 by preparing seizure list Ext.1, wherein Ext.1(3) is his signature. He found 128 pieces of 'Lali Poma Hand Sawn' timber loaded in the vehicle. Ext.1 is the seizure list and Ext.1(3) is his signature. They took the vehicle loaded with timber to North Lakhimpur Forest Range Office. He arrested the accused and

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forwarded him to the Court. He submitted offence report against the accused under Sections 24, 25, 40, 41, 49, 60 of the Assam Forest Regulation Act and under Sections 2, 9, 11, 50, 51 of the Wild Life (Protection) Act. Ext.2 is the offence report and Ext.2(1) is his signature.

12) It was the bounden duty of the accused to discharge his liability under Section 106 of the Indian Evidence Act, 1872 (Evidence Act for short). He tried to discharge his onus by his answers under Section 313 CrPC when he stated that he did not know anything about the loaded timber. At the time of the incident, his driver Dipal Sonowal was driving the vehicle and at night his driver did not return after taking away the vehicle. Then he came to know from the villagers that his vehicle was taken by the officials of the Tarioni Forest Beat Office, which is about 2/3 kilometers away from his house. On the next day, he went to the Forest Beat Office.

13) If his driver was responsible for loading the timber why was his driver not brought to book. He has given an explanation which exonerates him because the circumstances does not form a complete chain. He may be complicit, but as he was not apprehended along with the sawn timber, he gets a benefit of doubt.

14) In view of my foregoing discussions, it is thereby held that the accused was not found near the place of occurrence. He has denied of his involvement of being in his vehicle at the time of the incident as his vehicle was taken on rent by the driver at the time of the incident. It is true that the evidence clearly depicts that the vehicle loaded with

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sawn timber was found in the place of occurrence, but the accused was not found along with the vehicle. The accused gets the benefit of doubt. It is thereby held that the prosecution failed to prove beyond a reasonable doubt that the accused is the miscreant who trespassed into Dolung Forest Reserve and caused damaged to forest produce by felling trees and cutting timber from the forest area and by removing forest produce. The prosecution failed to prove beyond a reasonable doubt that the accused transported forest produce from reserve forest without proper permit. The prosecution also failed to prove beyond a reasonable doubt that the accused caused destruction of the inhabitat area consisting of animals of the Dolung Forest Reserve by felling or cutting forest produce and thereby acted in contravention of the provisions of the Wild Life (Protection) Act.

15) The accused is thereby acquitted from the charges under Sections 24/25/41 of the Assam Forest Resolution Act, 1891 and from the charges under Section 51 of the Wild Life (Protection) Act, 1972, on benefit of doubt, and is set at liberty forthwith.

Judgment is signed, sealed and delivered in the open Court on the 10<sup>th</sup> day of March, 2021.

( S.P. Khaund )  
Sessions Judge,  
Lakhimpur, North Lakhimpur.

Certified that the Judgment is typed to my dictation and corrected by me and each page bears my signature.

( S.P. Khaund )  
Sessions Judge,  
Lakhimpur, North Lakhimpur.

**APPENDIX****Sessions Case No.181(NL)/2016.****LIST OF WITNESSES FOR PROSECUTION :**

1. PW.1 - Sri Purna Kt. Saikia.
2. PW.2 - Sri Taranath Tamuli.
3. PW.3 - Sri Sankha Nath Pegu.

**LIST OF COURT WITNESS :**

Nil

**LIST OF EXHIBITS FOR PROSECUTION :**

1. Ext.1 - Seizure List.
2. Ext.2 - Offence Report.

**LIST OF MATERIAL EXHIBITS FOR PROSECUTION :**

Nil.

**LIST OF WITNESSES FOR DEFENCE :**

Nil.

**LIST OF EXHIBITS FOR DEFENCE :**

Nil.

( S.P. Khaund )  
Sessions Judge,  
Lakhimpur, North Lakhimpur.