



CNR: KAHC020050532018

NC: 2026:KHC-D:10888
CRL.A No. 100011 of 2018

IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 29TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MRS JUSTICE RAJESHWARI N.HEGDE

CRIMINAL APPEAL NO. 100011 OF 2018 (C)

BETWEEN:

1. ARJUN TUKKAPPA LAMANI
AGE: 26 YEARS, OCC: MASON,
R/O: AGADI VILLAGE,
TQ: MUNDGODD, DIST: KARWAR.
2. PARASHURAM LALAPPA LAMANI
AGE: 35 YEARS, OCC: COOLIE,
R/O: AGADI VILLAGE,
TQ: MUNDGODD, DIST: KARWAR.

...APPELLANTS

(BY SRI. A.M. GUNDAWADE, ADVOCATE)

AND:

STATE OF KARNATAKA
BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
DHARWAD BENCH AT DHARWAD,
THROUGH KALAGHATAGI POLICE.

...RESPONDENT

(BY SRI. JAIRAM SIDDI, HCGP)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 374 (2) OF CR.P.C., PRAYING TO SECURE THE RECORDS OF THE CASE BEARING SESSIONS CASE NO.74 OF 2017 FROM PRL. DISTRICT AND SESSIONS JUDGE, DHARWAD AND TO ALLOW THE APPEAL AND INTURN SETTING ASIDE THE JUDGMENT OF CONVICTION AND ORDER SENTENCE DATED 29.11.2017 PASSED IN SESSIONS CASE NO.74 OF 2017, BY PRL. DISTRICT AND SESSIONS JUDGE, DHARWAD AND TO ACQUIT THE





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APPELLANTS/ACCUSED PERSONS FROM THE ALLEGED OFFENCES UNDER SECTION 379 OF IPC AND UNDER SECTIONS 86 AND 87 OF KARNATAKA FOREST ACT 1963 AND ETC.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 17.07.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS JUSTICE RAJESHWARI N.HEGDE

CAV JUDGMENT

1. This appeal is filed by the appellants/accused under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C."), challenging the judgment of conviction and order of sentence dated 29.11.2017 passed by the Principal District and Sessions Judge, Dharwad, in S.C. No.74/2017. Where by the accused have been convicted for the offences p/u/s 379 Code of Civil Procedure and under sections 86 and 87 of KF Act.

2. The case of the prosecution, in brief, is as under:

The PSI of Kalaghatagi Police Station lodged a complaint alleging that on 04.07.2016, at about 10.00



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a.m., while he was in the Police Station, he received credible information over the telephone from an unknown person stating that at Bammigatti Cross, one person was carrying a handbag containing sandalwood billets and another person was accompanying him.

3. Immediately after receiving the information, the complainant secured panch witnesses and, along with his staff and the panch witnesses, proceeded to Bammigatti Cross. On reaching the spot, they noticed two persons, one of whom was carrying a handbag. On enquiry, they disclosed their names as Arjun Tukappa Lamani and Parashuram Lalappa Lamani, who are accused Nos.1 and 2 herein.

4. On inspection of the handbag, it was found to contain sandalwood billets. On enquiry, the accused allegedly disclosed that they had committed theft of the sandalwood billets near Bedti Halla Bridge within the limits of Balavantar Village and were transporting the same to



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Hubballi for the purpose of sale. They were not in possession of any pass or permit authorising transportation of the sandalwood billets.

5. After completing all the formalities, namely, weighing the billets, drawing the seizure mahazar and seizing the sandalwood billets, the accused were arrested and after completion of the investigation, the Investigating Officer filed the charge sheet against the accused for the offences punishable under Section 379 of the Indian Penal Code (for short, "IPC") and Sections 86 and 87 of the Karnataka Forest Act (for short, "the K.F. Act").

6. The learned Sessions Judge, after complying with Section 207 Cr.P.C. and hearing both sides, framed charges against accused Nos.1 and 2 for the aforesaid offences. The accused pleaded not guilty and claimed to be tried.

7. In order to prove the guilt of the accused, the prosecution examined seven witnesses as PWs.1 to 7, marked Exs.P1 to P6 and produced Material Object No.1.



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8. After closure of the prosecution evidence, the statements of accused Nos.1 and 2 were recorded under Section 313 Cr.P.C. They denied all the incriminating circumstances appearing against them in the evidence of the prosecution witnesses and denied their complicity in the alleged offences. However, they did not choose to adduce any defence evidence.

9. Upon appreciation of the oral and documentary evidence, the learned Sessions Judge convicted accused Nos.1 and 2 for the offences punishable under Sections 86 and 87 of the KF Act and Section 379 of the IPC and sentenced them as under:

"Accused Nos. 1 and 2 are sentenced to undergo SI for a period of three years and pay fine of Rs. 10,000/- each for the offence U/s 86 of Karnataka Forest Act, in default to pay fine to undergo SI for 2 months.

Accused Nos. 1 and 2 are further sentenced to undergo SI for a period of five years and pay fine of Rs.50,000/- each for the offence U/s 87 of Karnataka



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Forest Act in default to pay fine to undergo SI for 4 months.

Accused Nos. 1 and 2 are further sentenced to undergo SI for a period of 1 year and pay fine of Rs.1000/- each for the offence U/s 379 I.P.C., in default to pay fine to undergo SI for 1 month.

All the sentences of imprisonment shall run concurrently."

10. Being aggrieved by the said judgment of conviction and order of sentence, accused Nos.1 and 2 have preferred the present appeal on the following grounds:

- a. They are innocent and have not committed any offence. The evidence on record does not disclose any reliable or acceptable material to establish the charges levelled against them. The findings recorded by the trial Court that the prosecution has proved the guilt of the accused beyond all reasonable doubt are legally unsustainable.*
- b. The trial Court has erred in placing reliance upon the evidence of the prosecution witnesses, whose evidence is contradictory and insufficient to establish the guilt of the accused beyond*



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reasonable doubt. That there are material contradictions in the evidence of PW-1 and PW-6. According to PW-6, after receiving the information, they reached the spot at about 10.00 a.m. However, PW-1, who accompanied PW-6, has stated that when they reached the spot, the accused had just alighted from a bus. Thus, there is a material contradiction which has not been appreciated by the trial Court.

- c. According to the prosecution, nineteen sandalwood billets were seized from the possession of the accused. However, all the billets were not produced before the Court.*
- d. The officer who issued the certificate certifying that the seized billets were sandalwood billets had not undergone the training prescribed under Section 62C of the Karnataka Forest Act. Further, there is no evidence to establish from where the accused had allegedly cut or removed the sandalwood tree or any part thereof.*
- e. There are several contradictions in the prosecution evidence, and the evidence of the prosecution witnesses does not corroborate each other. Despite the same, the trial Court has erroneously convicted the accused.*



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11. Heard the learned counsel appearing for the parties. Perused the judgment of conviction, the order of sentence and the original records.

12. Upon consideration of the rival submissions and on perusal of the entire evidence on record, the following points arise for consideration:

- a. Whether the trial Court is justified in convicting the accused for the offences punishable under Sections 86 and 87 of the Karnataka Forest Act and Section 379 of the IPC?*
- b. Whether the impugned judgment of conviction and order of sentence suffer from any illegality and perversity warranting interference by this Court?*

13. The principal contention advanced by the learned counsel for the appellants is that the conviction is founded solely on the opinion of PW-4, who was serving as the Range Forest Officer. According to PW-4, on 22.07.2016, the Kalaghatagi Police produced nineteen billets before him. He examined the billets based on their



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smell and physical appearance and opined that they were sandalwood billets. Accordingly, he issued the certificate marked as Ex.P3.

14. It is the contention of the appellants that PW-4 was not an authorised officer competent to issue the certificate under Section 62C of the Karnataka Forest Act. It is submitted that the prosecution has failed to produce any notification issued by the State Government authorising PW-4 to exercise the powers conferred under Section 62C of the Karnataka Forest Act. Section 62C of the Karnataka Forest Act reads as follows:

Section 62C. Certificate of Forest Officer to be an evidence.- Any document purporting to be a certificate under the hand of a Forest Officer not below the rank of a Range Forest Officer who has undergone training in the examination of forest produce and who is so authorised by the State Government in this behalf in respect of forest produce, submitted to him for examination and report, may be used as evidence of the facts stated in such certificate in any proceedings under this Act, but the court may, if it things fit, and shall on the application of the



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prosecution or the accused person summon and examine any such Forest Officer as to the subject matter of his certificate."

15. In support of the said contention, the learned counsel for the appellants has placed reliance on the decision of this Court in ***Raghavendra Acharya v. State of Karnataka***, reported in ***ILR 2010 KAR 3382***.

16. Upon perusal of the evidence of PW-4, it is evident that he was serving as the Range Forest Officer. However, the prosecution has not produced any notification issued by the State Government to establish that, during the relevant period, PW-4 was authorised to exercise the powers conferred under Section 62C of the Karnataka Forest Act.

17. It is true that PW-4 was not cross-examined by the defence. Nevertheless, when the statute specifically requires that the opinion be rendered by an officer duly authorised under Section 62C of the Karnataka Forest Act, the burden lies upon the prosecution to establish such



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authorisation by producing the relevant Government notification. In the absence of such evidence, Ex.P3 cannot be treated as a certificate issued by a competent authority.

18. The second contention urged by the learned counsel for the appellants pertains to the contradictions in the prosecution evidence. PW-1, who accompanied the complainant, has deposed that when they reached the spot, the accused were alighting from a bus while carrying a bag. On the other hand, PW-6, the complainant, has stated that when they reached the spot, the accused were already standing there holding the bag. This contradiction assumes significance, as it relates to the very manner in which the accused were apprehended.

19. Further, according to PW-4, nineteen sandalwood billets were produced before him for examination. However, none of the material witnesses, namely, PWs.1, 2, 5, and 6, have specifically deposed to the exact number of sandalwood billets allegedly



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recovered from the possession of the accused. This omission also creates a doubt regarding the prosecution case.

20. In support of his arguments, he has relied upon following judgments:

- a. ***Santosh S/o Annappa Lamani v. State of Karnataka***, Criminal Appeal No. 2831/2009, disposed of on **14.07.2017**.
- b. ***State of Karnataka v. Mahamed Rafiq and Another***, Criminal Appeal Nos. 535/2014 and 370/2014, disposed of on **07.01.2026**.
- c. ***State of Karnataka v. Prakash and Others***, Criminal Appeal No. 466/2012.
- d. ***State of Karnataka v. Venkatesha @ Jiya S/o Jiya***, Criminal Appeal No. 236/2009, disposed of on **12.02.2014**.



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21. Having carefully re-appreciated the entire evidence on record, this Court finds considerable force in the submissions advanced on behalf of the appellants. The prosecution has failed to establish that PW-4 was duly authorised under Section 62C of the Karnataka Forest Act to certify that the seized billets were sandalwood. Further, there are material contradictions in the prosecution evidence regarding the manner in which the accused were apprehended and the alleged seizure of the sandalwood billets.

22. Further, the prosecution has not produced any evidence to establish from where or from which place the accused had allegedly cut the sandalwood trees and brought the billets. There is absolutely no evidence in this regard. The Investigating Officer ought to have interrogated the accused and conducted a thorough investigation to ascertain the place from which the sandalwood billets had allegedly been procured. If, as deposed by the complainant, the accused had already



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been apprehended while in possession of the billets, the Investigating Officer was expected to investigate and ascertain the place from which the trees had been cut and the billets removed. The failure to conduct such an investigation creates a serious doubt regarding the prosecution case and the manner in which the accused were allegedly apprehended.

23. It is a settled principle of criminal jurisprudence that the prosecution must prove the guilt of the accused beyond all reasonable doubt. Where two views are possible on the evidence and the material on record gives rise to a reasonable doubt, the benefit of such doubt must necessarily be extended to the accused.

24. The learned Sessions Judge, without properly appreciating these material aspects of the evidence, has erroneously recorded a finding of guilt against the accused. Consequently, the findings recorded by the trial Court cannot be sustained in law.



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25. Accordingly, both the points for consideration are answered in the negative, holding that the trial Court was not justified in convicting the accused and that the impugned judgment and order of conviction call for interference by this Court.

ORDER

- i. The appeal is ***allowed***.
- ii. The judgment of conviction and order of sentence dated 29.11.2017 passed by the Principal District and Sessions Judge, Dharwad, in S.C. No.74/2017 are hereby set aside.
- iii. Accused Nos.1 and 2 are acquitted of the offences punishable under Section 379 of the Indian Penal Code and Sections 86 and 87 of the Karnataka Forest Act.
- iv. The bail bonds, if any, executed by the accused shall stand cancelled.



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- v. The fine amount, if deposited, shall be refunded to the accused after the expiry of the appeal period, in accordance with law.
- vi. Material Objects shall be dealt with in accordance with law after the appeal period is over.

**Sd/-
(RAJESHWARI N.HEGDE)
JUDGE**

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list no.: 1 sl no.: 30