

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

Criminal Appeal No(s). 466/2012

STATE OF KARNATAKA ...Appellant(s)

VERSUS

PRAKASH & ORS. ...Respondent(s)

WITH

Criminal Appeal No. 467/2012

STATE OF KARNATAKA ...Appellant(s)

VERSUS

ANIL AND ANR. ...Respondent(s)

AND

Criminal Appeal No. 468/2012

STATE OF KARNATAKA ...Appellant(s)

VERSUS

JAYANNA ...Respondent(s)

JUDGMENT

N. V. RAMANA, J.

These appeals arise out of distinct impugned judgments passed by the High Court of Karnataka in CrI. Appeal No. 438/2007, CrI. Appeal No.

1469/2007 and Crl. Appeal No. 458/2007 respectively wherein, the High Court allowed the appeals preferred by the accused-respondents and acquitted them of offence under Section 87 of the Karnataka Forest Act (hereinafter “**the Act**”) read with Sections 379 and 34 of Indian Penal Code (**IPC**). Aggrieved by the above order of acquittal, the State of Karnataka has preferred these appeals.

2. It would be appropriate to note the facts in brief, necessary for the disposal of these cases. The accused persons were distinctly alleged to have been found transporting sandalwood in their private vehicles, thereupon they were intercepted by the concerned Range Forest Officer. The accused were accordingly charged for offence punishable under Section 87 of the Act, read with Sections 379 and 34 of IPC.

3. The trial court after appreciation of various evidences presented before it, convicted the accused-respondents under Section 87 of the Act read with Section 34 of IPC and sentenced them to undergo Simple Imprisonment for five years and to pay a fine of Rs.50,000 individually.

4. Aggrieved by the above order of conviction, the accused-respondents appealed before the High Court by filing Crl. Appeal No. 438/2007, Crl. Appeal No. 1469/2007 and Crl. Appeal No. 458/2007. The High Court while acquitting the accused respondents relied upon Section 62C of the Act and observed that the compliance with requirements as provided under Section 62C of the Act is mandatory in nature and in case of non-compliance of the same, charges under Section 87 of the Act cannot be sustained.

5. Aggrieved by the above order of reversal of conviction, the Appellant-State preferred appeals before this Court. Since these appeals are based on common question, they were heard together.

6. The counsel for the appellant-State submitted that the High Court of Karnataka erred in acquitting the accused-respondents by wrongly relying on the non-compliance of Section 62C of the Act without assessing the facts and circumstances of the case and the nature of the evidence adduced in its true perspective.

7. On the contrary, the counsel appearing for the respective accused-Respondents while supporting the judgment rendered by the High Court, relied on the mandatory nature of Section 62C of the Act and submitted that the concerned Range Forest Officer was not authorised to examine the forest produce as provided in Section 62C of the Act, hence the certificate issued by him cannot be said to be valid.

8. Having heard the learned Counsels from both the sides, the common contention involved in all the aforesaid appeals is that although the seized goods of forest produce is showed and proved by the prosecution as sandalwood by examining expert, the course adopted for the same was not in consonance with the provisions of Section 62C of the Act.

9. On perusal of the facts of cases presented above, we find that the prosecution could not produce any evidence to show that the concerned Range Forest Officer who issued the certificate in the present cases was qualified to do the same as prescribed under the provisions of Section 62C of the Act which makes it mandatory that the officer concerned should have been authorised by the Government and should have received

training for examining the forest produce. The concerned forest officers have nowhere stated in their evidence that they were duly authorised by the State Government and competent to issue the certificates in question. Going by the material on record, it can be said that the prosecution has failed to prove that the requirements as contemplated under Section 62C of the Act were met by the concerned officers before issuing the impugned certificates. There is also no other admissible evidence on record in support of the prosecution case that the confiscated items were sandalwood billets. Under the circumstances, the High Court was right in setting aside the order of conviction and sentence passed by the trial Court by reaching to the conclusion that the offence under Section 87 of the Act cannot be said to have been established against the accused in accordance with law.

10. For all the aforesaid reasons, we find no merit in these appeals calling for our interference with the impugned orders passed by the High Court. The criminal appeals are accordingly dismissed.

.....**J**
(N.V. RAMANA)

.....J
(MOHAN M. SHANTANAGOUDAR)

NEW DELHI,
AUGUST 30, 2018.