

(A) 7  
IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE,  
BARPETA

Case No. CR 752/09

U/S 51(1)/51(1-A) of W.L.(P) Act

**State**

-Vs-

1) Mojammel Haque, 2) Riajuddin,  
3) Anowar Hussain, 4) Fajar Ali, 5) Baharul  
Islam, 6) Abdul Kalam, 7) Md. Taskar,  
8) Danpati Das, 9) Achik Ali, 10) Anar  
Basumatary, 11) Bipul Basumatary .....Accused

Present = Mrs. R.A. Rahman, AJS,  
Chief Judicial Magistrate,  
Barpeta.

Advocates appeared:

For the State = Sri Mrigen Das

For the accused = Sri D. Talukdar, S. Das, F.  
Rahman, D.Das, M.Rahman

Date of evidence = 27.6.09, 15.5.10, 30.1.11

Date of argument = 15.7.2013

Date of judgment = 25.7.2013

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

1. The prosecution case is that on 20.3.09 one Babul Brahma,  
Forest Beat Officer, pursuing a secret information at about 9-00 PM  
along with the staff and the Field Director, Dy. Field Director and  
police staff of Barpeta Road Police Station went to the Railway  
Wagon loading unloading Point at Barpeta Road near Railway  
crossing. And on making surprise inspection they found the 12

Contd. 2

accused persons in possession of various articles of wild life and they were caught red handed. The accused persons along with the articles were brought to the Office of the Field Director, Barpeta Road, and the articles were seized and the accused persons were forwarded before the Ld. Chief Judicial Magistrate, Barpeta. Thereafter, the said Babul Brahma conducted the investigation of the case and on completion of it submitted offence report against the accused persons namely, Mojammel Haque, Riajuddin, Saburuddin, Anowar Hussain, Fajar Ali, Baharul Islam, Abdul Kalam, Md. Taskar, Danpati Das, Achik Ali, Abar Basumatary and Bipul Basumatary U/S 39 (1) (2) (3), 40, 43(1), 44, 50 of Wild Life (Protection) Act, 1972.

2. On receipt of this case record for disposal, the case proceeded as warrant procedure case. Accordingly 4 witnesses were examined and cross examined, but further cross examinations of the witnesses were reserved. Thereafter, charge u/s 51(1)/51(1-A) of Wild Life (Protection) Act, 1972 were framed against the accused persons to which they pleaded not guilty and instead claimed to stand trial. And after framing of charge defence further cross examined the prosecution witnesses.

Statements of the accused persons u/s 313 Cr.P.C. were recorded wherein they pleaded total denial. But defence in support of their plea did not adduce any evidence.

But during trial accused Saburuddin failed to enter into his appearance and accordingly the case against him was filed vide order. dtd. 26.3.13.

Contd. 3.

5. Points for determination :-

Whether the accused persons on 20.3.09. at about 9-00 PM. at Railway wagon loading unloading point, Barpeta Road (near Railway crossing) under Barpeta Road P.S.,

i) were found with clouded leopard skin, rhinoceros skin, pangolin skin, bone and teeth of tiger, bone of sloth bear, tusk of elephant, claw less otter, rhesus macaque, skin of samber, hog deer and sloth bear by violating the provisions of Sec. 43, 44 of Wild Life (Protection) Act, 1972 and thereby committed an offence punishable u/s 51 (1) of the Wild Life (Protection) Act ?

ii) were found with clouded leopard skin, rhinoceros skin, pangolin skin, bone and teeth of tiger, bone of sloth bear, tusk of elephant, claw less otter, rhesus macaque, skin of samber, hog deer and sloth bear by violating the provisions of Chapter V-A of Wild Life (Protection) Act, 1972 and thereby committed an offence punishable u/s 51 (1-A) of the Wild Life (Protection) Act ?

6. Decision thereon and Reasons for the decision :-

Evidence placed before me has been perused. I have also heard arguments of the Ld. Counsel of both sides. Now let me analyse the evidence on record to arrive at a just decision.

PW.1- Babul Brahma, the Forest Beat Officer, in his evidence disclosed that on 20.3.09 while he was posted at Barpeta Road Head quarters of Manas Tiger Project as beat officer, on that night at 9-00 PM, pursuing a secret information, he along with the Field Director Anondiya Swargiary, Dy. Director C.R. Bhobra and the staff and police personnel of Barpeta Road Police Station went to Barpeta Road Railway Station at loading unloading point. And on making search they recovered various types of wild life articles from the possession of the 12 accused persons. It is disclosed by this witness that they

found 3 pieces of leopard skin. 1 piece of rhinoceros skin. 1 piece of pangolin skin. 4 Nos. of tiger teeth, 4 kgs. of tiger bone, tiger milk (dry) 50 gms., ½ kg. of sloth bear bone. 1 piece of elephant tusk weighing 300 gms., 9 pieces of otter skin, one rhesus macaque. 1 piece of samber skin, 1 piece of hog deer skin. 1 piece of sloth bear skin. one Hero Honda motor cycle bearing No. AS 15/A 4124, and 7 Nos. of mobile handset with sims and the same were seized. Ext. 1 is the seizure list and Ext.1(1) is his signature.

M. Ext.1. M. Ext. 2 and M. Ext. 3 are the clouded leopard skins. M. Ext. 4 is the rhinoceros skin. M. Ext. 5 is the pangolin skin. M. Ext.6. M. Ext.7, M. Ext.8 and M. Ext.9 are the tiger teeth with jaw. M. Ext.10 is the 4 kgs. of tiger bone, M. Ext.11 is the tiger milk (dry) weighing 150 gms., M. Ext.12 is the sloth bear bone weighing ½ kg.. M. Ext.13 is the elephant tusk weighing 300 gms., M. Ext.14, M. Ext.15. M. Ext.16, M. Ext.17, M. Ext.18, M. Ext.19, M. Ext.20, M. Ext.21 and M. Ext.22 are otter skins. M. Ext.23 is the samber skin, M. Ext.24 is the hog deer skin. M. Ext.25 is the sloth bear skin, M. Ext.26 is the motor bike and M. Ext.27, M. Ext.28, M. Ext.29, M. Ext.30, M. Ext.31. M. Ext.32, and M. Ext.33 are the mobile handsets.

7. The complainant revealed that they brought the accused persons along with the seized articles to the police station and thereafter they were taken to the head quarters. Statements of the accused persons were recorded vide Ext.2, Ext.3, Ext.4, Ext.5, Ext.6, Ext.7, Ext.8, Ext.9, Ext.10, Ext.11, Ext.12 & Ext.13. And Ext.2(1), Ext.3(1), Ext.4(1), Ext.5(1), Ext.6(1), Ext.7(1), Ext.8(1), Ext.9(1), Ext.10(1)

11(1). Ext.12(1) & Ext.13(1) are his signatures. Subsequently on 22.3.09 the accused persons were produced before the Ld. C.J.M., Barpeta and on completion of investigation he submitted the offence report vide Ext.14 and Ext.14(1) & 14(2) are his signatures. While being subjected to cross examination, PW.1 disclosed that the articles were seized at the police station after they were brought from the Barpeta Road Railway Wagon loading unloading point. He also stated that the seized articles were found in bags from the possession of the accused persons. But at the same time, the complainant admitted that he does not remember what articles were found from the possession of which of the accused persons. He also admitted that he does not remember in how many bags the seized articles were brought. He further stated that the seized articles were not sent to Forensic Laboratory (F.S.L.). He also revealed that after the seizure, the same were sealed but the specimen signature of the witnesses were not taken. He also stated finding the accused persons in one Indica car and one Tata Safari Car and that the seized articles were found inside the said two vehicles. It is also disclosed by this witness that besides the accused persons, there were 2 drivers and another person in the said vehicles and though they were brought to the police station, statement of the drivers and the said person were not taken, neither were they made accused. It is also admitted by this witness that the said 2 vehicles were not seized and they were allowed from the police station. PW.1 also admitted that as per Wildlife (Protection) Act, the vehicles from which forest produces are required to be seized and people are to be apprehended. He also

that the statements of the accused persons were taken at the police station and that they were in police custody. It is disclosed by the informant that the statements of the accused persons were recorded by Forester Sanjit Das and Forester Kripa Nath. On being questioned by defence PW1 also admitted that when there is recovery of any wild animal parts or carcass of any wild animal in the sanctuary or from the possession of other persons, for proper verification it is shown to the Veterinary doctor, who accordingly submits report and thereafter necessary actions are taken. But in connection with this case, PW1 disclosed, that though the seized articles were shown to the Veterinary doctor, but he does not remember whether the Vety. Officer has submitted the report or not. PW1 further admitted that along with the offence report, he did not submit the report of the Vety. Officer.

8. On being challenged, PW.1 however denied the suggestion put to him that he did not seize any wild life articles from the possession of the accused persons and that the accused persons were not loitering at Barpeta Road Railway Station along with the seized articles. He also denied the suggestion put to him that they allowed the real culprits to go scot free along with the vehicles and have falsely implicated the accused persons.

I find that though this witness was subjected to stiff and lengthy cross examination by defence, but nothing material could be elicited out of this witness to render his testimony unreliable. I find that defence has failed to demolish the credibility of the unshaken version of this witness. Thus, the clinching testimony of the complainant inspires confidence of his truthfulness and genuineness.

Contd. 7

9. Corroborating the testimony of the complainant, PW.2- Kripa Nath also disclosed in his evidence that on 20.3.09 while he was posted at the Head quarters of Manas Tiger Project. he along with Babul Brahma and other staff went to Barpeta Road Railway wagon loading unloading point and on search operation. they found the 12 accused persons in possession of articles of wild animals. He reiterating the same fact as stated by the complainant also disclosed that 3 pieces of leopard skin, 1 piece of rhinoceros skin, 1 piece of pangolin skin, 4 Nos. of tiger teeth with jaws, 4 kgs. of tiger bone, tiger milk weighing 1'50 gms., ½ kg. of sloth bear bone, 1 piece of elephant tusk weighing 300 gms., 9 pieces of otter skin, one rhesus macaque, 1 piece of sambar skin, 1 piece of hog deer skin, 1 piece of sloth bear skin, one motor bike and 7 Nos. of mobile handset were seized from the possession of the accused persons by the Forester Babul Brahma. And Ext.1(2) is his signature as the seizure witness. However during cross examination, this witness disclosed that the seizure list was prepared at Barpeta Road Railway loading unloading point and he have put his signature at the place of occurrence. He also stated that the seized articles were first brought to the police station and subsequently to their office. He further admitted that the two vehicles by which the accused persons were brought were allowed to go. He also divulged that the seized articles were found from the dicky of the vehicles and the seized articles were seized at the railway station. He also stated that the accused persons brought the seized articles in plastic bags. He however admitted that he was not present when the articles were seized. However, this witness also stated that

Contd. 8

besides the accused persons there were two drivers and another one person. It is also disclosed by this witness that he recorded the statements of two of the accused persons at their office.

But on being challenged by defence, PW.2 also denied the suggestion put to him that the seized articles were not recovered from the possession of the accused persons and that they along with police by making conspiracy allowed the real culprits to go free. Herein also, though this witness was subjected to lengthy and stiff cross examination by defence, but the veracity of his testimony could not be shaken. His testimony too inspires confidence of his truthfulness.

10. Substantiating the testimonies of PW.1 and PW.2, PW.3- Banjit Bayan, who was a Forest Guard at Manas Tiger Project at that time, in his evidence also disclosed that on 20.3.09, at around 9-00 PM, he along with forest staff went to the Railway line and found one Indica car with leopard skin, tiger bone, deer skin, bear skin, etc. He also disclosed finding the 9 accused persons in the said vehicle in possession of the seized articles which were seized by the Forest Beat Officer Babul Brahma. And Ext.1(3) is his signature as the seizure witness. He stated that the accused persons along with the seized articles were brought to the police station and thereafter taken to their Forest Beat office where Babul Brahma recorded their statements. He further disclosed that the seizure list was prepared at Barpeta Road police station. During cross examination this witness disclosed that the accused persons had a bike and a Maruti Wagon R with them and the seized articles were recovered from the dicky of the said vehicle.

Contd.



He also stated that as per information received, they reached the Railway gate situated at Barpeta Road wherein the said vehicles were searched. He further admitted not being present at the time of making the seizure list as he had to go to another place. He too denied the suggestion put to him that nothing was seized from the possession of the accused persons and that a false case has been lodged against the accused persons.

11. Similarly, PW.4- Babulal Orang also stated that on 20.3.09 when he was posted at Manas Tiger Project as Forest Guard, at around 9-00 PM, they went to Barpeta Road Railway line and found one Indica vehicle and a motor cycle from where they recovered tiger skin, deer skin, bear skin, etc. and which were seized from the possession of the accused persons by the Forest Beat Officer Babul Brahma. And Ext.1(4) is his signature as one of the seizure witness. He also stated that the seized articles were first taken to the police station and subsequently to their office. And during cross examination this witness divulged that some portion of the seized articles were seized from the motor cycle and some portion from the Indica vehicle and that the seizure list was prepared at the place of occurrence. He also stated that the seized articles along with the accused persons were taken to the police station. Herein also on being challenged by defence, this witness denied the suggestion put to him that nothing has been recovered or seized from the possession of the accused persons and that the accused persons have been falsely implicated in this case.

Contd.

12. Now on the backdrop of the above evidence, let me find out whether prosecution has succeeded to bring home the charge against the accused persons.

Sec. 39 of Chapter V of Wild Life (Protection) Act reads as follows :

Wild animals etc, to be Government property\_

“(1)Every-

(a) wild animal, other than vermin, which is hunted under section 11 or sub-section (1) of section 29 or sub-section (6) of section 35 or kept or [bred in captivity or hunted] in contravention of any provision of this Act or any rule or order made thereunder or found dead, or killed [\*\*\*\*\*]by mistake; and

b) animal article, trophy or uncured trophy or meat derived from any wild animal referred to in clause (a) in respect of which any offence against this Act or any rule or order made thereunder has been committed;

c) ivory imported into India and an article made from such ivory in respect of which any offence against this Act or any rule or order made thereunder has been committed;

d) vehicle, vessel, weapon, trap or tool that has been used for committing an offence and has been seized under the provisions of this Act”.

shall be the property of the State Government, and, where such animal is hunted in a sanctuary or National Park declared by the

Central Government, such animal or any animal article, trophy, uncured trophy or meat [derived from such animal, or any vehicle, vessel, weapon, trap or tool used in such hunting] shall be the property of the Central Government.

(2) Any person who obtains, by any means, the possession of Government property, shall, within forty eight hours from obtaining such possession, make a report as to the obtaining of such possession to the nearest police station or the authorized officer and shall, if so required, hand over such property to the officer- in - charge of such police station or such authorized officer, as the case may be.

(3) No person shall, without the previous permission in writing of the Chief Wild Life Warden or the authorized officer-

(a) acquire or keep in his possession, custody or control, or

(b) transfer to any person, whether by way of gift, sale or

otherwise, or

(c) destroy or damage,

such Government property.

13. Again Sec. 43 of Chapter V of Wild Life (Protection) Act reads as follows :-

(1) No person having in his possession captive animal, animal article, trophy or uncured trophy in respect of which he has a certificate of ownership shall transfer by way of sale or offer for

sale or by any other mode of consideration of commercial nature, such animal or article or trophy or uncured trophy.

(2) Where a person transfers or transports from the State in which he resides to another State or acquires by transfer from outside the State, any such animal, animal article, trophy or uncured trophy in respect of which he has a certificate of ownership, he shall within thirty days of the transfer or transport, report the transfer or transport to the Chief Wild Life Warden or the authorised officer within whose jurisdiction the transfer or transport is effected.

(3) Nothing in this section shall apply -

(a) to tail feather or peacock and the animal article or trophies made therefrom;

(b) to transfer of captive animals between recognised zoos subject to the provisions of section 38-1 and transfer amongst zoos and public museums.

Similarly, Sec. 44 of Chapter V of Wild Life (Protection) Act

reads as follows : Subject to the provisions of Chapter VA, no person shall, except under, and in accordance with, a licence granted under sub-section (4) -

(a) commence or carry on the business as - .....

14. Again, Chapter VA of The Wild Life (Protection) Act deals with the Prohibition of Trade Or Commerce in Trophies, Animal Articles, etc Derived From Certain Animals wherein Sec. 49A defines "Scheduled

animal", "Scheduled animal article" and "specified dates" as stated below :

(a) "Scheduled animal" means an animal specified for the time being in Schedule I or Part II of Schedule II;

(b) "Scheduled animal article" means an article made from any Scheduled animal and includes an article or object in which the whole or any part of such animal [has been used but does not include tail feather of peacock, an article or trophy made therefrom and snake venom or its derivative];

© "specified date means-

(i) in relation to a scheduled animal on the commencement of the Wild Life (Protection) (Amendment) Act, 1986, the date of expiry of two months from such commencement; [\*\*\*\*]

(ii) in relation to any animal added or transferred to Schedule I or Part II of Schedule II at any time after such commencement, the date of expiry of two months from such addition or transfer;

(iii) in relation to ivory imported into India or an article made from such ivory, the date of the expiry of six months from the commencement of the Wild Life (Protection)(Amendment) Act, 1991.

15. Now reverting back to the case in hand, I find that PW.1 the complainant by his cogent and reliable version disclosed how on a tip off, he along with the other official staffs by taking help of Barpeta Road P.S. police went to Barpeta Road Railway Wagon loading unloading point wherein they found the 12 accused persons in

possession of the seized articles as described in the seizure list. This fact of finding the accused persons in possession of the seized articles has also been disclosed by PW.2, PW.3 & PW.4. It is an admitted position as already stated above that the testimonies of these witnesses are found to be reliable and truthful. No motive and reason could be shown by defence as to why these witnesses without any reason would depose falsely against the accused persons. Moreover, the seizure of the seized articles from the possession of the accused persons has been duly proved by the other seizure witnesses, i.e. PW.2, PW.3 & PW.4 besides the informant. No doubt defence took the plea of total denial. But to rebut the allegations made by prosecution defence did not tender any evidence. Besides, from the evidence available on record, it is crystal clear that the accused persons could not produce any documents to show that they have licence or permission to keep the wild life articles, trophies etc in their possession.

16. Now, I.d. Defence counsel pointed out that the Field Director and the Deputy Field Director, who were present at the time of raid were not examined. Therefore to defence adverse inference should be drawn against the prosecution case. But on perusal of the evidence on record, I find that no doubt the Field Director and the Deputy Field Director have not been examined by prosecution, but mere failure on the part of prosecution to adduce their evidence will not nullify or negate the otherwise reliable prosecution case.

17. *Our Hon'ble Apex Court in Gosu Jairami Reddy &*

another Vs. State of Andhra Pradesh with Gosu Rama Chandr Reddy & others Vs. State of Andhra Pradesh as reported in 201 CrL. L.J. 4387 S.C. while dealing with the examination of the materials witnesses has held as under :

" Every witness listed in the charge sheet need not be examined- Once deposition of eye witness examined at the trial is accepted as trustworthy - Non examination of other witnesses would become inconsequential. It is well settled that every witness that the prosecution may have listed in the charge sheet need not be examined. It is entirely in the discretion of the Public Prosecutor to decide as to how he propose to establish his case and which of the listed witnesses are essential for unfolding the prosecution story. Simply because more than one witness have been cited to establish the very same fact is no reason why the prosecution must examine all of them."

That being the position, mere failure on the part of prosecution to examine the Field Director and the Deputy Field Director would not have deposed the same fact as narrated by the other prosecution witnesses would not and cannot corrode the crux of the prosecution case.

18. Besides Section 134 of The Evidence Act lays down in clear terms that no particular number of witnesses is necessary for proof or disproof of any fact, the result is that in any case the testimony of a single witness if believed is sufficient to establish any fact. Section 134 of The Evidence Act follows the maxim that Evidence is to be

Contd.

*weighed and not counted."*

Therefore, the argument advanced by Defence that adverse inference should be drawn against the prosecution case for failure on the part of prosecution to examine the Field Director and the Deputy Field Director is devoid of any merit.

19. Ld. Defence counsel again during his submission pointed out that there is some major and grave contradictions in between the versions of the prosecution witnesses in context of where the seizure was made whether at the police station or at the place of occurrence, regarding the place where the statements of the accused persons were recorded whether at the police station or at the forest office. But after proper scrutiny and appreciation of the evidence on record, what I find is that, there is no strength in the submission made by defence as because the contradictions which the Ld. Defence counsel pointed out, to me are all minor contradictions and discrepancies and cannot in any way dig, corrode or demolish the crux of the prosecution case that the seized articles were not recovered from the possession of the accused persons. It is a well settled proposition of law that minor discrepancies on trivial matters not touching the core of the case, attaching importance to some technical error committed by prosecution not going to the root of the matter would not ordinarily permit rejection of the evidence as a whole.

20. Again Ld. Defence counsel drew by attention to the fact that prosecution has failed to get the seized articles examined by the F.S.L

Contd. 1



and that there is no Veterinary doctor's report to prove that the seized articles are articles made from the Schedule wild animals. Therefore, failure on the part of prosecution to send the seized articles to F.S.L. or none production of Vety. Doctor's report to prove that the seized articles are articles of Wild Animals, to defence is fatal to the prosecution case. It is an admitted position that the seized articles were not sent for F.S.L. Examination and there is no report from the Vety. Doctor in this context. But it is also an admitted position that no single suggestion has been put forward by defence to the prosecution witnesses that the articles seized do not fall within the category of the Scheduled Wild Animals which in turn proves the claim made by prosecution that the articles found and seized from the possession of the accused persons are articles and trophies of Scheduled Wild Animals. Therefore, failure on the part of prosecution to obtain the Vety. Doctor's report or to send the seized articles for F.S.L. examination to me is not at all fatal to the prosecution case.

21. Again, Id. Defence counsel during his argument vehemently submitted that the statements recorded of the accused persons are in fact confessional statements. And that it is not admissible in evidence as it was recorded while the accused persons were in police custody.

*Now, Sec. 164 of Cr.PC reads as follows :*

*"Any Metropolitan Magistrate or Judicial Magistrate may, whether or not he has jurisdiction in the case, record any confession or statement made to him in the course of an investigation under*

*this Chapter or under any other law for the time being in force, or at any time after wards before the commencement of the inquiry or trial : .....*"

That being the law, herein I find that the statements of the accused persons were recorded by the Forest Officials and not by any Judicial Magistrate or Metropolitan Magistrate. Moreover, in a confessional statement the Magistrate requires to make a memorandum at the foot of the statement recorded. But here in the instant case, no such memorandum had been shown or made at the foot of any of the statements recorded. Therefore, the argument put forward by defence that statements recorded by the complainant and PW2- Kripa Nath are to be treated as confessional statements is not at all tenable in law and is devoid of any merit.

22. It is also pertinent to note that The Wild Life (Protection) Act is a Special Act. It empowers the forest officials to record the statements of the accused persons. Therefore I hold that the statements recorded of the accused persons by the complainant and PW2- Kripa Nath are in no way confessional statements but are statements made by the accused persons .

Wrapping up the above discussion, I hold that in view of the over whelming oral evidence of the prosecution witnesses supported by the seizure, prosecution has succeeded to prove beyond reasonable doubt that the twelve accused persons were found and caught handed in unlawful possession of articles of wild animals and one

Cont

Rhesus Mecaque and they were apprehended at Barpeta Road Railway wagon loading unloading point (near Railway crossing).

23. No doubt, defence took the plea that the accused persons have been falsely implicated and nothing were recovered or seized from their possession. But as seen no evidence has been adduced by defence to substantiate their plea that no recovery has been made from their possession.

*Now Sec. 57 of the Wild Life (Protection) Act reads as follows: Presumption to be made in certain cases:- Where, in any prosecution for offence against this Act, it is established that a person is in possession, custody or control of any captive animal, animal article, meat, [trophy, uncured trophy, specified plant, or part or derivative thereof] it shall be presumed, until the contrary is proved, the burden of proving which shall lie on the accused, that such person is in unlawful possession, custody or control of such captive animal, animal article, meat [ trophy, uncured trophy, specified plant, or part or derivative thereof].*

Thus in view of Sec 57 of the Wild Life (Protection) Act , the plea taken by defence of being falsely implicated in this case, stands not proved as defence failed to discharge its burden that the seized articles, trophies of wild animals were not found from their possession.

24. Now, from the schedule of The Wild Life (Protection) Act, it is seen that the seized articles namely, clouded leopard skin,

rhinoceros skin, pangolin skin, bone and teeth of tiger, bone of sloth bear, tusk of elephant, clawless otter, . skin of sloth bear falls within *Part I of Schedule I* of this Act wheres the seized Rhesus Macaque falls within *Part I of Schedule II* and skins of hog deer and sambar falls within the *Schedule III* respectively of this Act.

As such, I find that the accused persons have violated the provisions of The Wild Life (Protection) Act, 1972, as they were found in unlawful possession of the seized articles.

25. Accordingly, the accused persons namely, Mojammel Haque, Riajuddin, Anowar Hussain, Fajar Ali, Baharul Islam, Abdul Kalam, Md. Taskar, Danpati Das, Achik Ali, Abar Basumatary and Bipul Basumatary are all held guilty and convicted U/S 51 (1) and 51 (1-A) of the Wild Life (Protection) Act.

26. It is an admitted position that the seized articles found from the possession of the accused persons are product of wild lives and wild animal. And these accused persons who are either hunters or traders of animals and animals articles, have in their greed plundered forests and killed millions of innocent animals causing many animals to extinct and threatening many others. Living creatures being dependent on each other and the survival of the human race also being dependent on them has caused great concern in our society to these rampant killings. As such, the perpetrators of such crime should not be dealt leniently.

I herefore . I find that the benefit of Sec. 3/4 of the Probation of Offenders Act cannot be extended to the accused persons.

27. Heard the convicts on the point of sentence U/S 248 CrPC which is reduced into writing in separate sheets and kept with the case record. The accused persons prayed for leniency.

Considering all aspects and looking into the nature of the offence committed by the convicts, I sentenced all the convicts namely Mojammel Haque, Riajuddin, Anowar Hussain, Fajar Ali, Baharul Islam, Abdul Kalam, Md. Taskar, Danpati Das, Achik Ali, Abar Basumatary and Bipul Basumatary to undergo Rigorous Imprisonment for 3(three) years each and to pay a fine of Rs.10,000/ (ten thousand) each i.d. to undergo Simple Imprisonment for 6 (six months) months each for committing the offence of U/S 51 (1) of The Wild Life (Protection) Act and further sentenced to undergo Rigorous Imprisonment for 3(three) years each and to pay a fine of Rs.10,000/ (ten thousand) each i.d. to undergo Simple Imprisonment for 6 (six months) months each for committing the offence of U/S 51 (1-A) of The Wild Life (Protection) Act 1972.

Both the sentences shall run concurrently.

28. However, the convicted persons are entitled to get the benefit U/S 428 of CrPC for the period of imprisonment already undergone during investigation and trial period, if any.

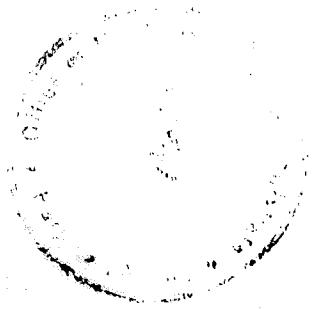
Contd. 22

Judgment is delivered in open court in presence of the accused persons.

A free copy of the judgment be given to the accused persons.

Given under my hand and seal of this court on this the 25<sup>th</sup> day of July, 2013.

Dictated & corrected



স্বাক্ষরিত করা হয়েছে  
স্বাক্ষর  
সহকারী জজ (অতিরিক্ত)  
কুমিল্লা (অতিরিক্ত)  
২৫-৭-১৩

Compared by  
25-7-13  
Asst. Office of the  
C.J.M. Barisal

(X)

A P P E N D I X

A. Prosecution Witnesses

- PW.1 - Babul Brahma
- PW.2 - Kripa Nath
- PW.3 - Banjit Bayan
- PW.4 - Babulal Orang

B. Defence Witness

Nil

C. Documents exhibited by prosecution

- EXT.1 - Seizure list.
- EX1.2 to Ext.13 - Statements of the accused persons.
- EX1.14 - Offence Report.

D. Documents exhibited by defence.

Nil.

সংসদীয় নথি  
১৯৭৩ সাল  
১৯৭৩ সালের ১৯ জানুয়ারি  
১৯৭৩ সালের ১৯ জানুয়ারি  
১৯৭৩ সালের ১৯ জানুয়ারি

Completed by  
25.7.73.  
Asst. Officer of the  
C. J. M. Barpeta