

IN THE COURT OF THE JUDICIAL MAGISTRATE OF FIRST CLASS, KALADY  
Present:

Sri. M.D. Aneesh. B.A. LL.B., Judicial Magistrate of I Class

Dated this the 4<sup>th</sup> day of December 2015

C.C NO.1587 /15 (OR 5/15 Karakkad F.S)

Complainant : Range Officer, Kalady Forest Range.

By A.P.P.

Accused : 1. Syouta Shibasaki, 4/5 Kimitsu City, Minowa, Japan.  
: 2. Murai Yusuke, Chibakan Chibashi, Japan.

By Adv .Bobby Raphael.C

Offence : U/S 27(1) (e) (iv) of the Kerala Forest Act 1961, U/s 51 & 52 of the Wild Life Protection Act 1972 and U/s 55 of Biological Diversity Act 2002.

Plea : Guilty

Finding : Guilty

Sentence or order : Both accused are found guilty for the offences charged and they are convicted and sentenced U/s 246 (3) Cr. PC to undergo simple imprisonment for one year and to pay a fine of Rs. 5000/- each U/s 27 (1) (e) (iv) of the Kerala Forest Act 1961 and in default of payment of fine to undergo simple imprisonment for further one month, to undergo simple imprisonment for one year and to pay a fine of Rs.20,000/- each U/s 51 (1) of the Wild Life Protection Act 1972 and in default of payment of fine to undergo simple imprisonment for further four months and to undergo simple imprisonment for one year and to pay a fine of Rs. 20,000/- each U/s 55 of the Biological Diversity Act and in default of payment of fine to undergo simple imprisonment for further four months. Set off is allowed for the period of imprisonment undergone during investigation and trial.

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JUDGEMENT

1. This is a complaint case filed by the Range Officer, Kalady Forest Range alleging that accused have committed the offences punishable U/s 27(1) (e) (iv) of the Kerala Forest

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Act 1961, U/s 51 & 52 of the Wild Life Protection Act 1972 and U/s 55 of Biological Diversity Act 2002 and U/s 110, 113 r/w 56 of the Central Customs Act.

2. The prosecution case in brief is as follows:

On 20-06-2015 the accused, who are Japanese nationals, were intercepted by the Customs Intelligence wing at the Cochin International Airport, Nedumbassery and found that accused were in possession of some wild animals and they were trying to export them without any authorization. Accused were arrested by the Customs Intelligence wing and later they were handed over to the Forest Range Officer( Grade), Karakkad Forest Station within Kalady Forest Range, as the place of occurrence falls within the limits of that Forest Station.

3. Both accused were produced before this court on 21-06-15 and they were remanded to Judicial Custody on the same day and they were granted bail by an order dated 18-08-15. Both accused are represented by counsel and all prosecution records were served to them.

4. On 16-10-15 accused made an application for speedy trial by advancing the case and the same was allowed and summons was issued to the complainant. On 29-10-15 the complainant was examined as Pw1 U/s 244 Cr.PC and the prosecution evidence was closed and the case was posted for framing charge. On 18-11-15 charge was framed against the accused U/S 27(1) (e) (iv) of the Kerala Forest Act 1961, U/s 51 & 52 of the Wild Life Protection Act 1972 and U/s 55 of Biological Diversity Act 2002. The offence under the customs act was omitted as the accused already remitted fine before the customs authorities for those offences.

5. On 18-11-15 both accused were present before the court along with their counsel. The charge was read over and explained to the accused. A copy of the charge was also given to the accused. Both accused pleaded guilty to the charge.

I am satisfied that the accused made the plea voluntarily after understanding the charge, the offences and their punishments. So the plea made by both accused are accepted. There after the case was posted for hearing on the question of sentence.

6. The counsel for the accused submitted that the accused are Japanese nationals and they were not aware of the seriousness of the offences. Both of them are young in age and already undergone nearly two months in Judicial Custody. So the counsel prayed for a lenient view in the matter of punishment. On the other hand the prosecutor submitted that accused do not deserve any leniency as they have committed a serious offence with much



preparation and pre-planning with business motive.

7. I have perused the case records. It is revealed from the examination of Pw1 that the accused are conducting a Super Market in Japan for the sale of Wild Animals captured from different parts of the world. A video recording in respect of the super market, and the accused exhibiting the wild animals and their prize etc, was received from the mobile phone of one of the accused and it is produced before the court by copying the same in to a Compact Disc. They came to India with all tools for capturing and preserving wild animals. Pw1 submitted that A1 also confessed the commission of the offence. The place of occurrence in this case is the Chiklayi Portion 1962 Teak Plantation which is a Reserve Forest and a copy of the Reserve Notification is produced to show the same.

8. From the available evidence, it can be seen that the accused have committed a serious offence for their business purpose. Their act would cause irreparable injury and damage to the environment and to the echo system. So a proper punishment is to be imposed on the accused to refrain from such activities in future.

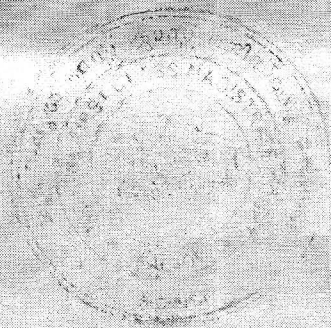
9. So both accused are found guilty for the offences charged and they are convicted and sentenced U/s 246 (3) Cr. PC to undergo simple imprisonment for one year and to pay a fine of Rs. 5000/- each U/s 27 (1) (e) (iv) of the Kerala Forest Act 1961 and in default of payment of fine to undergo simple imprisonment for further one month, to undergo simple imprisonment for one year and to pay a fine of Rs.20,000/- each U/s 51 (1) of the Wild Life Protection Act 1972 and in default of payment of fine to undergo simple imprisonment for further four months and to undergo simple imprisonment for one year and to pay a fine of Rs. 20,000/- each U/s 55 of the Biological Diversity Act and in default of payment of fine to undergo simple imprisonment for further four months. Set off is allowed for the period of imprisonment undergone during investigation and trial. The sentence shall run concurrently.

Pronounced by me in Open Court this the 4<sup>th</sup> day of December 2015.

Sd/-

Judicial Magistrate of I Class

(True Copy)



Judicial Magistrate of I Class