

KARN300002182024



**IN THE COURT OF THE II ADDITIONAL DISTRICT
AND SESSIONS JUDGE. BENGALURU SOUTH
DISTRICT, TO SIT AT KANAKAPURA**

PRESENT

KUMAR.H.N., B.A.L., LL.B.,
II Addl. District & Sessions Judge,
Bengaluru south District, to sit at Kanakapura.

DATED THIS THE 6th DAY OF APRIL, 2026

S.C. No.5033/2024

COMPLAINANT : Kanakapura Forest Range,
Kanakapura
(By Public Prosecutor)

-Vs-

**ACCUSED
PERSONS**

- 1** Chikkathimma
S/o Venkatesh,
aged 23 years,
R/at Gollaradoddi village,
Maralawadi hobli,
Kanakapura taluk.
- 2.** Ramakrishna,
S/o Venkatesh,
aged 18 years,
R/at Gollaradoddi village,
Maralawadi hobli,
Kanakapura taluk.
**(By Sri. A.B. Siddaraju.,
Advocate)**

Date of commission of offense	13.10.2018
Date of report of offense	13.10.2018
The offenses complained of	Sec. 50, 84, 86, 87 (1) and (2) of Karnataka Forest Act 1963 and Rule 144 of Karnataka Forest Rules-1969
Date of recording of evidence	25.10.2025
Date of closing of evidence	08.01.2026
The opinion of judge	Accused No.1 and 2 found not guilty

J U D G M E N T

1. The Range Forest Officer, Kanakapura Range, Kanakapura., had filed final report in CC No.883/2023 on the file of Prl. Civil Judge and JMFC., Kanakapura., alleging the commission of offenses punishable U/s 50, 84, 86, 87 (1) and (2) of Karnataka Forest Act 1963 and Rule 144 of Karnataka Forest Rules-1969, in connection with FOC. No. 11/2018-19 against the accused No.1 and 2.

2. The brief facts of the case of the prosecution is as follows:

That on 13.10.2018, the CW1 and CW2 were on patrol duty near the vicinity of Maralawadi Government Bus stand and at about 10.30 p.m., the 2 persons were staying in the Maralawadi Bus stand coupled with one school bag and on examination of their movements, the CW1 and CW2 have got suspect over the movements of said 2 persons and thereafter, the CW1 and 2 have got suspect over them and later, on inquiry by the CW1, the said 2 persons have not gave plausible explanation to the query put forth by the CW1 and CW2 and thereafter, the CW1 and CW2 had verified their school bag and found Sandalwood billets along with sandalwood aroma. Further, it is also reveals that, on questioning the same, the said 2 persons have

also disclosed that, they have cut down the Sandalwood trees at the hill station near their village and later, converted into billets and the same is brought for selling purpose. In this regard, on inquiry with the said 2 persons, they have disclosed that, they have not availed any permission or etc., for cutting and transporting of the Sandalwood billets and later, the CW1, on inquiry with the said 2 persons, they have disclosed their names as Chikkathimma and Ramakrishna. Further, the CW1 had seized the Sandalwood billets and also taken custody of the accused No.1 and 2 and seized Sandalwood billets weighing up to 3.5 kgs by drawing mahazar. Further, it is also reveals that, the CW1 had produced the accused No.1 and 2 before the CW4 Nanjundappa. Hence, complaint.

3. Thereafter, the CW1 had registered the case in FOC No.11/2018-19 for the offenses punishable U/s 50, 84, 86, 87 (1) and (2) of Karnataka Forest Act 1963 and Rule 144 of Karnataka Forest Rules-1969. After culmination of the investigation, the CW7 had submitted the final report in C.C No.883/2023 on the file of Prl. Civil Judge and JMFC, Kanakapura for the offenses punishable under section Sec. 50, 84, 86, 87 (1) and (2) of Karnataka Forest Act 1963 of 1963 and and Rule 144 of Karnataka Forest Rules-1969.

4. After compliance of Sec.207 of Cr.P.C, the Prl. Civil Judge and JMFC, Kanakapura, by furnishing charge sheet papers to the accused No.1 and 2 and later acting under Sec.209 of Cr.P.C. had committed the case, to this court of Sessions by the order dated 21.05.2024. Later, the committal Court had registered the case against the accused No.1 and

2 in SC No.5033/2024. While committing the case, the accused No.1 and 2 were enlarged on bail.

5. In pursuance of the summons issued by this Court, the accused No. 1 and 2 appeared through his counsel before this Court and enlarged on bail after furnishing surety for his due appearance and this Court after hearing regarding of framing charge and has framed the charge against accused No.1 and 2 for the offense punishable U/s 50, 84, 86, 87 (1) and (2) of Karnataka Forest Act 1963 and Rule 144 of Karnataka Forest Rules-1969, on 10.09.2025 and for which the accused No.1 and 2 pleaded not guilty and claims to be tried.

6. In order to prove the case of the prosecution, the prosecution has examined 4 witnesses as PW.1 to PW.4 and got marked the Ex.P-1 to Ex.P-6 and marked M.O.1 and M.O.2.

7 SC No. 5033-2024

Further, by the Order sheet dated 25.10.2025, the examination of the CW2 is given up. Further, by the Order sheet dated 10.11.2025, the examination of the CW3 is given up. Further, by the Order sheet dated 08.01.2026, the examination of the CW6 is given up.

7. As there is a incriminating evidence found in the evidence of the PW.1, PW2, PW3, PW4, this court conducted examination of accused in compliance of Sec.313 of Cr.P.C., on 29.01.2026, for which accused No.1 and 2 have denied all the incriminating evidence found against them and submitted there is no evidence of their side.

8. Heard the arguments by the learned Public Prosecutor for the State and also the learned counsel for the accused No.1 and 2.

9. On rival contentions urged by the learned Public Prosecutor for the State and also learned advocate for the accused No.1 and 2 this court would like to formulate the following the points for consideration for the determination of this case for its final disposal is as under

POINTS

1. *Do the prosecution proves with beyond all reasonable doubt, that on 13.10.2018, in the afternoon, while the Harohalli Branch, Sub-Divisional Forest Officer (in-charge) and his staff were patrolling within the limits of Maralvadi Town Beat, the accused No.1 and 2 had cut a sandalwood billets weighing 3.5 kg without obtaining any license from the Forest Department and it in pieces with the intention of selling it illegally transporting the Sandalwood billets and thereby, accused persons have committed the offense punishable u/s 50, 84, 86, 87 (1) & (2) of Karnataka Forest Act 1963 ?*
- 2 *To what order ?*

10. This Court draw findings to the above said points are as follows:-

Point No.1: In the Negative

***Point No.2: As per final order
for the following;***

REASONS

11. **POINT No.1** : As already the facts relating to the case facts is taken in detail on record while narrating the facts of the case. Now at this stage it is not necessary to take up the same facts once again on record as it would be reiteration of the facts.

12. As could be seen from the first information statement, the CW1 registered the case in FOC No.11/2018-19 for the offenses punishable U/s 50, 84, 86, 87 (1) and (2) of Karnataka Forest Act 1963 and Rule 144 of Karnataka Forest Rules-1969. After culmination of the investigation, the CW7 had submitted the final report in C.C No.883/2023 on the file of Prl. Civil Judge and JMFC, Kanakapura for the offenses punishable under section Sec. 50, 84, 86, 87

(1) and (2) of Karnataka Forest Act 1963 of 1963 and and Rule 144 of Karnataka Forest Rules-1969.

13. It is culled out from the averments of the complaint that, on 13.10.2018, the CW1 and CW2 were on patrol duty near the vicinity of Maralawadi Government Bus stand and at about 10.30 p.m., the 2 persons were staying in the Maralawadi Bus stand coupled with one school bag and on examination of their movements, the CW1 and CW2 have got suspect over the movements of said 2 persons and thereafter, the CW1 and 2 have got suspect over them and later, on inquiry by the CW1, the said 2 persons have not gave plausible explanation to the query put forth by the CW1 and CW2 and thereafter, the CW1 and CW2 had verified their school bag and found Sandalwood billets along with sandalwood aroma. Further, it is also reveals that, on questioning the same, the said 2 persons have also disclosed that, they have cut down

the Sandalwood trees at the hill station near their village and later, converted into billets and the same is brought for selling purpose. In this regard, on inquiry with the said 2 persons, they have disclosed that, they have not availed any permission or etc., for cutting and transporting of the Sandalwood billets and later, the CW1, on inquiry with the said 2 persons, they have disclosed their names as Chikkathimma and Ramakrishna. Further, the CW1 had seized the Sandalwood billets and also taken custody of the accused No.1 and 2 and seized Sandalwood billets weighing up to 3.5 kgs by drawing mahazar. Further, it is also reveals that, the CW1 had produced the accused No.1 and 2 before the CW4 Nanjundappa. Hence, complaint.

14. On scrutinization of the chief-examination of the PW1 Arun B.L, who is cited as CW1 in the charge sheet. As per the prosecution theory case, the

witness is who conducted mahazar and registered the case against the accused No.1 and 2. The chief-examination of the PW1 reveals that, that on 13.10.2018, the witness and CW2 were on patrol duty near the vicinity of Maralawadi Government Bus stand, at about 10.30 p.m, two persons were staying in Maralawadi Bus stand coupled with one school bags and on examination of their movements, the witness and CW2 have got suspect over them. Later, the witness and CW2 have inquired them and they have not gave plausible explanation to the query put forth by the witness and thereafter, the witness had verified the school bag and found the Sandalwood billets having sandalwood aroma. Further, on inquiry with the said persons, they have disclosed that, they had cut down the sandalwood trees at the hill station near their village and later converted into billets and pieces and same is brought for seeling purpose. In this regard, the said persons have also

disclosed that, they have not availed permission for cutting sandalwood trees and also for transportation of Sandalwood billets. Further, the witness had taken the custody of the accused No.1 and 2 and later, seized Sandalwood billets, after weighing, it came nearly 3.5 Kgs. Further, the chief-examination of the PW1 also reveals that, accused persons have disclosed their name and particulars as Chikkathimma and Ramakrishna respectively. Further, the chief-examination of the PW1 also reveals that, the witness had requested the local persons to assist in drawing mahazar. For which, the local persons have denied the request of the witness, on account of that, the witness had called CW3 and CW4, via phone and thereafter, on the arrival of CW3 and CW4, the witness had gave information to CW3 and CW4 in respect of the instant case and later, the witness drawn mahazar between 01.30 to 02.00 p.m and seized the 2 Sandalwood billets and taken the

custody of the accused persons. Further, the PW1 has also deposes in his chief-examination statement that, the CW2 had wrote the mahazar on the dictation of the witness. Further, the witness identifies the seizure mahazar drawn on 13.10.2018 and also his signature found therein and the same is marked as Ex.P1 and Ex.P1(a) respectively. Further, the chief-examination of the PW1 also reveals that, the witness had taken the accused No.1 and 2 to the forest office and registered the FIR in FOC No.11/2018-19. Further, the witness identifies the FIR and also his signature found therein and the same is marked as Ex.P2 and Ex.P2(a) respectively. Further, the chief-examination of the PW1 also reveals that, the witness had conducted the procedure as per the Rule 67(3) of Karnataka Forest Rules and the same is submitted before the Jurisdictional magistrate. Further, the witness identifies the said document dated 13.10.2018 and also his signature

found therein and the same is marked as Ex.P3 and Ex.P3(a) respectively. Further, the witness also identified the 4 Sandalwood billets and 7 sandalwood pieces and they have collectively marked as M.O.1. Further, the witness also identified school bag and the same is marked as M.O.2. Further, the witness identified the accused No. 1 and 2 during the course of trial before this Court.

15. On scrutinization of the cross-examination of the PW1 conducted by learned counsel for the defense, the witness also admitted the suggestion put forth by the learned counsel for the defense that, the witness had not conducted mahazar in respect of alleged sandalwood tree stump. For which this Court would like to extract the cross-examination of the witness at page No.3, para No.1, line No.1 to 3 which reads as thus “ಎಂಬ-1ನ್ನು ವಶಪಡಿಸಿಕೊಂಡಿದ್ದು ಎಂದು ಹೇಳಲಾದ ಮರದ ತುಂಡುಗಳನ್ನು ಎಲ್ಲಿ ಕಟಾವು ಮಾಡಿ ಹಾಗೂ ತುಂಡುಗಳನ್ನಾಗಿ ಪರಿವರ್ತಿಸಿದ ಸ್ಥಳ

ಮತ್ತು ಮರದ ಬುಡದ ಸ್ಥಳದ ಪಂಚನಾಮೆಯನ್ನು ಜರುಗಿಸಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿ.”

Further, during the course of cross-examination, the witness also admitted the suggestion put forth by the learned counsel for the defense that, the witness had not received any expert opinion in so far as alleged billets are Sandalwood billets or not. For which this Court would like to extract the cross-examination of the witness at page No.3, para No.1, line No.3 and 4 which reads as thus “ಎಂಬ-1 ಶ್ರೀಗಂಧದ ಮರದ ತುಂಡುಗಳು ಎಂದು ನಿರೂಪಿಸಲು ತಜ್ಞರಿಂದ ಮಾಹಿತಿಯನ್ನು ಪಡೆದುಕೊಂಡಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿ.”.

Further, during the course of cross-examination, the witness replied to the query put forth by the learned counsel for the defense that, the witness had not noticed installation of CC Camera in and around Maralawadi Bus stand premises. Further, during the course of cross-examination, the witness replied to the query put forth by the learned counsel for the defense that, the witness had not made request to the T.C of Maralawadi Bus stand to come and assist in

drawing mahazar. For which this Court would like to extract the cross-examination of the witness at page No.1, para No.1, line No.5 to 7 which reads as thus “
ಮರಳವಾಡಿ ಸರ್ಕಾರಿ ಬಸ್ ನಿಲ್ದಾಣದ ಆವರಣದಲ್ಲಿ ಸಿಸಿ ಕ್ಯಾಮೆರಾವನ್ನು
ಅಳವಡಿಸಿರುವುದನ್ನು ನಾನು ನೋಡಿ ಗಮನಿಸಿರುವುದಿಲ್ಲ. ಮರಳವಾಡಿ ಸರ್ಕಾರಿ ಬಸ್
ನಿಲ್ದಾಣದ ಟಿಸಿ ರವರನ್ನು ಭೇಟಿ ಮಾಡಿ ಪಂಚನಾಮೆಯನ್ನು ಜರುಗಿಸಲು
ಸಹಕರಿಸುವಂತೆ ಕೇಳಿಕೊಂಡಿರುವುದಿಲ್ಲ”. Further, during the course
of cross-examination, the witness replied to the query
put forth by the learned counsel for the defense that,
on account of work pressure, the witness had not
mentioned duration and drawing time of mahazar.
Further, during the course of cross-examination, the
witness also admitted the suggestion put forth by the
learned counsel for the defense that, the Ex.P3 does
not disclose about the number of Sandalwood billets
and also number of sandalwood pieces. For which
this Court would like to extract the cross-examination
of the witness at page No.4, line No.9 and 10 which
reads as thus “ನಿಪಿ-3ರಲ್ಲಿ ಶ್ರೀಗಂಧದ ತುಂಡುಗಳು ಹಾಗೂ ಚೂರುಗಳ ಬಗ್ಗೆ

ನಮೂದು ಮಾಡಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿ.” Further, during the course of cross-examination, the witness also admitted the suggestion put forth by the learned counsel for the defense that, there is no any mention of the weight of seized sandalwood billets and pieces in Ex.P1. For which this Court would like to extract the cross-examination of the witness at page No.4, line Nos.13 and 14 which reads as thus “ ಎಂಬ-1ರಲ್ಲಿ ಕಂಡುಬರುವ 04 ತುಂಡುಗಳು ಹಾಗೂ 07 ಚಕ್ಕೆಗಳ ತೂಕ ಹಾಗೂ ಉದ್ದಳತೆಗಳನ್ನು ನಿಪಿ-1ರಲ್ಲಿ ನಮೂದು ಮಾಡಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿ.” Further, on scrutinization of the cross-examination of the PW1 conducted by the learned counsel for the defense that, the witness denied the entire suggestions and questions put forth by the learned counsel for defense and nothing has been elicited from the mouth of the witness to impeach the credence attached to the evidentiary value to the chief-examination statement of PW1.

16. On scrutinization of the chief-examination of the PW2 Nanjundappa, who is cited as CW4 in the charge sheet. As per the prosecution theory case, the PW2 is the mahazar witness. The chief-examination of the PW2 reveals that, the witness identifies the spot mahazar dated 13.10.2018, which is already marked as Ex.P1 and the witness also identified his signature found therein and the same is marked as Ex.P1(b). Further, the chief-examination of the PW2 also reveals that, that on 13.10.2018, the CW1 had conveyed the message to the witness that, they have caught persons, who are illegally transporting the Sandalwood billets and instructed the witness to reach Maralawadi Bus stand. On account of that, at about 11.00 a.m, the witness and CW3 reached the Maralawadi Bus stand and later, the CW1 had inquired with the accused No.1 and 2, at that time, the accused persons have disclosed that, they have cut down the sandalwood trees at Gollaradoddi village

forest are and later, they have converted into billets and transporting the same for sale. Thereafter, the witness seized the Sandalwood billets and taken the custody of the accused No.1 and 2 by drawing mahazar in between 01.30 p.m to 03.00 p.m. Further, the witness also identified the M.O.1 and 2 during the course of trial before this Court. Further, the chief-examination of the PW2 also reveals that, the CW3 had also put his signature on Ex.P1 along with him. Further, the witness identifies the accused No.1 and 2 before this Court during the course of trial.

17. On scrutinization of the cross-examination of the PW2 conducted by learned counsel for the defense, the witness also admitted the suggestion put forth by the learned counsel for the defense that, CCTV camera is installed in and around bus stand premises. Further, during the course of

cross-examination, the witness replied to the query put forth by the learned counsel for the defense that, the witness had not noticed the number of Sandalwood billets and also its weight. For which this Court would like to extract the cross-examination of the witness at page No.2, para No.1, line Nos. 6 which reads as thus “ಮರಳವಾಡಿ ಬಸ್ ನಿಲ್ದಾಣದ ಆವರಣದಲ್ಲಿ ಸಿ.ಸಿ. ಕ್ಲಾ ಮಾರವನ್ನು ಅಳವಡಿಸಲಾಗಿರುತ್ತದೆ ಎಂದರೆ ಸರಿ. Further, this Court would like to extract the cross-examination of the PW2 at page No.3, line No.1 and 2, which reads as thus “ಚಾ.ಸಾ.1 ರವರು ಶ್ರೀಗಂಧದ ಮರವನ್ನು ತೂಕ ಹಾಕುವಾಗ ಅವುಗಳು ಎಷ್ಟು ತಂಡು ಹಾಗೂ ಚುಕ್ಕೆಗಳು ಇದ್ದವು ಎಂದು ನಾನು ಎಣಿಸುವುದಿಲ್ಲ ಹಾಗೂ ನೋಡಿರುವುದಿಲ್ಲ.” Further, on scrutinization of the cross-examination of the PW2 conducted by the learned counsel for the defense that, the witness denied the entire suggestions and questions put forth by the learned counsel for defense and nothing has been elicited from the mouth of the witness to impeach the

credence attached to the evidentiary value to the chief-examination statement of PW2.

18. On scrutinization of the chief-examination of the PW3 Dinesh, who is cited as CW5 in the charge sheet. As per the prosecution theory case, the PW3 is who conducted part investigation. The chief examination of the PW3 reveals that, on 13.11.2018, the witness had received the investigation papers from CW1 and after verification, the witness proceeded for further investigation, the witness had recorded the self statements of Accused No.1 and 2. Further, the witness identifies the self statements of accused No.1 and 2 and also his signature found therein and the same are marked as Ex.P4, Ex.P4(a) and Ex.P5, Ex.P5(a) respectively. Further, the witness identifies the left hand thumb impression of the accused No.1 found at Ex.P4 and also identifies the signature of the accused No.2 found

at Ex.P5 and the same are marked as Ex.P4(b), Ex.P5(b). Later, the witness had produced the accused No.1 and 2 before the Jurisdictional Magistrate and remanded for judicial custody. Further, the chief-examination of the PW3 also reveals that, the witness had handed over the investigation papers to CW7 for further investigation.

19. Further, on scrutinization of the cross-examination of the PW3 conducted by the learned counsel for the defense that, the witness denied the entire suggestions and questions put forth by the learned counsel for defense and nothing has been elicited from the mouth of the witness to impeach the credence attached to the evidentiary value to the chief-examination statement of PW3.

20. On scrutinization of the chief-examination of the PW4 Dhalesh, who is cited as CW7 in the

charge sheet. As per the prosecution theory case, the PW4 is who conducted part investigation and submitted final report. Further, the chief-examination of the PW4 also reveals that, that on 29.07.2020, the witness had received investigation papers from CW5 and on verification of the same, the witness proceeded for further investigation. Further, that on 01.09.2022, after availing due permission from CW6, the witness had submitted the final report against the accused persons before the Jurisdictional Magistrate. Further, the chief-examination of PW4 also reveals that, witness had adopted the Order copy to along with permission letter along with investigation papers. Further, the witness had identifies the permission letter and the same is marked as Ex.P6.

21. Further, on scrutinization of the cross-examination of the PW4 conducted by the learned

counsel for the defense that, the witness denied the entire suggestions and questions put forth by the learned counsel for defense and nothing has been elicited from the mouth of the witness to impeach the credence attached to the evidentiary value to the chief-examination statement of PW4.

22. On cumulative scrutinization of the material available on record, it is the prosecution case that, 13.10.2018, at about 10:30 a.m near the Maralawadi bus stand, the Forest Authorities apprehended the accused No.1 and 2 for the illegal possession and transporting of 3.5 kgs of sandalwood billets in a school bag without any valid permit and etc. In this regard, the CW1 and CW2 have apprehended the accused No.1 and 2 and seized Sandalwood billets, weighing of 3.5 kgs by drawing mahazar, and registered a criminal case under

the Karnataka Forest Act for the unauthorized removal and transportation of forest produce.

23. On meticulous scrutinization and evaluation of the evidence of the PW1 to PW4 appearing that, the evidence of PW1 to 4 are not corroborating each other in establishing *carpus delecta* against the accused No. 1 and 2 for the offences punishable U/s 50, 84, 86, 87 (1) and (2) of Karnataka Forest Act 1963 and Rule 144 of Karnataka Forest Rules-1969. Further, during the course of cross-examination, the PW1 also admitted that, he has not not obtained the expert opinion report in order to establish the fact that, M.O. 1 is sandalwood billets as required under law in the implication of the penal provision of Karnataka Forest Act and rules. Further, on cumulative scrutinization of the cross-examination of PW1, the PW1 himself had admitted that, the Ex.P3 does not discloses about the

number of Sandalwood billets and also number of sandalwood pieces. Further, on scrutinization of the cross-examination of the PW2 also admitted that, the PW2 had not noticed the number of Sandalwood billets and also its weight. Further, on considering the cross-examination of the PW1 and PW2, which are not corroborate with each other. Further, during the course of trial, the prosecution produced the four sandalwood pieces and seven sandalwood flakes and same are not forthcoming in Ex.P1 and due to the shranky evidence lead out by the prosecution, there is a doubt creates in the mind of Court in so far as velocity and credence attached to the prosecution theory case and also in so far as genuinity of the prosecution theory case.

24. Further, both the PW1 and PW2, who being witness to the Mahazar witness which is marked as Ex.P1 are unable to disclose the weight of

the billets and fails to identify the cutting sandalwood wood of stump of the sandalwood tree and by the inaction of the prosecution witness in disclosing stump of sandalwood tree and thus, the prosecution theory case is also under serious dispute and unable to brought material aspects and incriminating facts against the accused No.1 and 2 in order to bring home guilt for the offences punishable U/s 50, 84, 86, 87 (1) and (2) of Karnataka Forest Act 1963 and Rule 144 of Karnataka Forest Rules-1969.

25. Further, the prosecution witness has not brought clinching material aspects before this Court during the course of trial and also advancing the arguments that the mahazar was drawn at the first instance and Ex.P1 is drawn before registration of the FIR which is marked as Ex.P2. In this regard, the prosecution has not brought material to satisfies this Court in establishing prosecution theory case against

the accused persons. Further, by the evidence of PW1, PW2 and PW3, the presence of PW2 is under serious dispute on considering the evidence of the PW1 to PW2 and PW3.

26. Further, on scrutinization of the evidence of the PW1, PW3, PW4 have not clarified in this regard the manner of investigation and mahazar drawn is in compliance of procedure established under law and by that, the prosecution case is also under serious dispute due to lack of compliance of procedure in bringing factum of probanda against the accused No.1 and 2 in order to prove the home guilt for the offences punishable U/s 50, 84, 86, 87 (1) and (2) of Karnataka Forest Act 1963 and Rule 144 of Karnataka Forest Rules-1969.

27. Further, on scrutinization of the evidence of PW1, who is the informant, who files FIR (Ex.P2)

against the accused No.1 and 2 and further, on scrutinization of the evidence of PW1, he himself comes conclusion that, the alleged billets are sandalwood billets, without expert opinion report from the competent authority and PW4 files final report against the accused No.1 and 2, that, the accused No.1 and 2 have committed the offences punishable under section 50, 84, 86, 87 (1) and (2) of Karnataka Forest Act 1963 and Rule 144 of Karnataka Forest Rules-1969. In this regard, prosecution has miserably fails to brought material before this court in so far as the authenticity of M.O.1 by adducing clinching documentary and ocular evidence. Further, the prosecution has not also brought any material before this Court that, the PW1 is having competence and authenticity to draw a opinion about ascertaining the sandalwood. Further, the evidence of PW1 is not fortifies by the evidence of PW2 especially in respect of numbers and

weight of M.O.1 and the evidence of PW2 is not fortified by the contents of Ex.P1. Further, the prosecution has not convincingly satisfied this Court, why the PW1 has not requested the T.C of Maralawadi Bus stand to come and assist in drawing mahazar, when other public servant are easily available in the spot, where, the PW1 had allegedly apprehended the accused No.1 and 2. Further, the PW1 has set criminal law set in motion against the accused No.1 and 2 for the offences punishable U/s 50, 84, 86, 87 (1) and (2) of Karnataka Forest Act 1963 and Rule 144 of Karnataka Forest Rules-1969, before registering FIR and procedure adopted by the forest authority is unknown to the law, the said incurable, defective investigation and etc., is appears to be is occasioned the failure of justice. Further, the Ex.P1 does not disclose the time and duration of its drawing and by the objection raised by the defense, the Ex.P1 loses its legal enforceability and credence

attached to it. In this regard, no prompt effort made by the prosecution that, the Ex.P1 is drawn as per the provisions of Forest Manual.

28. Further, on evaluation of the evidence and material available on record, the prosecution has miserably fails to brought material by adducing and examining independent witness in order to prove the contents of Ex.P1. As per the spirit of the criminal jurisprudence when the prosecution theory case is not corroborated and fortifies by independent witness, it is highly improbable for this Court to draw the inference in favour of prosecution, and in addition to when, there is a lack of legal infirmities in conducting Ex.P1 and registering the Ex.P2 FIR and also lack of expert opinion report in respect of M.O. 1 is the sandalwood tree billets and also corroborative evidence from PW1 to PW4. Further, it is also noted from the material available on record that, during the

course of cross-examination, the PW1 to PW4 discloses that, the alleged scene of occurrence occurred at Public place i.e., Maralawadi Bus stop and there are huge public movements in and around of the alleged scene of occurrence. On such being the case, non availability of independent witness and etc and drawing of Ex.P1 is creates doubt in the mind of the Court in so far as its enforceability and scantily is concerned.

29. Further, on scrutinization of the chief-examination of the PW1, PW3 and PW4, they have not tendered sandalwood billets before Higher official in compliance of section 62(3) and section 71-A of Karnataka Forest Act 1963.

30. In this regard, this Court take note of the material and evidence available on record after seizure of the M.O. 1 and the same are not produced before

the higher officials in compliance of provisions of Karnataka Forest Act 1963. In this regard, this court is taken note of the non compliance of Sec.62(3) and Sec.71-A of Karnataka Forest Act 1963, 1963. Complying this provision is mandatory in view of the employment of the word "shall" in those provisions and also in view of the judgment of Hon'ble High court of Karnataka reported in ILR 2006 Kar.3216 (Banuprakash A., Chikkamagalore and another Vs. State by ACF) and unreported decision in Criminal Appeal No.95/2014 between Subbaiah and another Vs. State by RFO., N. R. Pura. As per ratio laid down in the above two decisions, compliance of above provision of Karnataka Forest Act 1963 is mandatory and its non compliance would vitiate the prosecution. Sec.62(3) of Karnataka Forest Act 1963, 1963 envisages that, officer seizing property shall as soon as possible make a report of such seizure to the concerned authorized officer. As per Sec.71A of the

said Act, the seizing officer shall, without any unreasonable delay, produce the seized articles before the officer authorized by the State Government.

31. If this court peruses entire evidence, nowhere it is forthcoming that, the officer, who has seized sandalwood, produced it before authorized officer without any delay. As per Ex.P.3 a report has been submitted under Rule 67(3) to the Jurisdictional Magistrate about the seizer. But, seized sandalwood billets were not at all produced before the authorized officer. None of the Forest officials, who were examined before this Court, have said about they producing Authorized the seized officer and sandal wood thereby billets complying before the above mandatory provisions.

32. When an action is to be taken strictly in accordance with law, a proof that effect must be

produced before the court. There is no proof regarding production of seized sandalwood billets before the authorized officer. Under such circumstances, as held by Hon'ble High court of Karnataka as per the aforesaid decisions, the seizure would vitiate and consequently the prosecution against the accused in terms of the above seizure would also get vitiated.

33. On considering the arguments advanced by counsel for defence, since, there was dispute between accused persons and forest officials, on account of that, a false case has been registered against them. Considering the evidence placed before this court, lacuna found in the investigation, failing to secure independent witnesses, though they are available, would all create doubt in the mind of this court regarding case entire set up by the prosecution. Hence, this Court comes to conclusion that, the prosecution failed to lead cogent, convincing and concrete evidence before this court to prove the guilt

of the accused. The evidence on record is too scanty to fasten the criminal liability upon the accused No. 1 and 2 and to convict them. Hence, answer point No.1 in the Negative.

34. POINT No.2 :- In view of my above discussion and findings on the point No.1 in the negative, this court is of the opinion that the accused No.1 and 2 are entitled for acquittal. In the result, extending benefit of doubt to the accused No.1 and 2, this court proceed to pass the following ;

ORDER

Acting under Section 235(1) of Cr.P.C, the accused No.1 and 2 are found not guilty and acquitted from the charges leveled against them for contravention of Section 50, 84, 86, 87 (1) and (2) of Karnataka Forest Act 1963 and Rule 144 of Karnataka Forest Rules-1969 in connection with FOC.No.11/2018-19 against the accused No.1 and 2.

The accused No.1 and 2 are ordered to be set at liberty and surety bail bonds of accused No.1 and 2 are stands canceled.

MO.1 is with the custody of the Investigating officer/Forest official and the same is confiscated to the state and M.O.2 is also confiscated to the state.

*(Dictated to Stenographer directly typed on computer by him, then corrected directly in computer by me and pronounced by me in the Open court on this the **6th DAY OF APRIL, 2026**)*

(KUMAR.H.N)

II Addl. District & Sessions Judge,
Bengaluru south District, to sit at Kanakapura.

ANNEXURE

1. Witnesses examined for prosecution :

PW1	Arun B.L
PW2	Nanjundappa
PW3	Dinesh
PW4	Dhalesh

2. Documents marked for prosecution :

Ex.P1	Spot Mahazar
Ex.P1(a)	Signature of PW1

Ex.P2	FIR
Ex.P2(a)	Signature of PW1
Ex.P3	One document
Ex.P3(a)	Signature of PW1
Ex.P1(b)	Signature of PW2
Ex.P4	Self statement of A1
Ex.P4(a)	Signature of PW3
Ex.P5	Self statement of A2
Ex.P5(a)	Signature of PW3
Ex.P4(b)	Left hand thumb impression of A1
Ex.P5(b)	Signature of A2
Ex.P6	Order copy dated 01.09.2022

3. Witnesses examined for the defense :

- NIL

4. Documents marked for the defense :

- NIL -

5. Material Objects marked for prosecution :

M.O.1	Four Sandalwood pieces and seven sandalwood flakes
M.O.2	One Bag

(KUMAR.H.N)

II Addl. District & Sessions Judge
Bengaluru South District, to sit at Kanakapura.

