

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE,  
TALIPARAMBA

PRESENT : Sri. Anuraj.M.V.,

Judicial First Class Magistrate, Taliparamba

Dated this the 5<sup>th</sup> day of May, 2026/ 15<sup>th</sup> day of Vaisakha, 1948

**Calender case No. 1340/2024**

Complainant : Forest Range Officer, Taliparamba,  
O.R.No. 16/2016  
(By Sri. Abdussatar.V.P., A.P.P.)

Accused : Pradeepan.P.  
(By Adv. Revathi.K.)

Offence : U/s. 47(A),(B),(C),(F),(G)&(H),  
52 and 61A of Kerala Forest Act 1961

Plea : Not guilty

Finding : Not guilty

Sentence/Order : Accused is acquitted U/s. 248(1) of  
Cr.PC.

**Description of accused**

Sl. No	Name	Father's Name	Residence	Occupation	Age
1	2	3	4	5	6
1	Pradeepan.P.	Raghavan.K.	Arayakkandi (H), Kuttyattoor.P.O.	-----	45/16

Date of :-

Occurrence	Complaint	Apprehension of appearance	Released on bail	Commencement of trial	Close of trial	Sentence/ Order	Explanation of delay
01-11-16	01-11-16	14-06-21 (A2 to A5)	07-11-16	07-09-23 (A2 to A5)	28-04-26	05-05-26	

### ***JUDGMENT***

This case was taken on file on the basis of the final report filed by the Taliparamba Forest Range Officer in O.R.No. 16/16 alleging offence punishable u/s. 47(A),(B),(C),(F),(G)&(H), 52 and 61A of Kerala Forest Act 1961.

2. The case of the complainant is that on 01.11.2016, the accused illegally cut and removed sandalwood trees from the Panneri Theiya community crematorium. Thus, the accused committed the offences punishable U/s. 47(A),(B),(C),(F),(G)&(H), 52 and 61A of Kerala Forest Act 1961.

3. Originally, the case was taken on file as CC 1227/2018. All accused appeared before the court, and they were released on bail. Copies were furnished. After that PW1 to PW3 witnesses were examined, and Ext.P1 to P6 documents were marked on the side of the prosecution u/s 244Cr.P.C. after that charge was framed against the accused under section

47(A),(B),(C),(F),(G)&(H), 52 and 61A of Kerala Forest Act 1961 which was read over and explained to the accused to which he pleaded not guilty.

4. Thereafter, PW1 to PW3 witnesses were recalled, and the counsel for the accused cross-examined them. Since A4 (accused herein) absconded at the time of questioning u/s. 313 Cr.PC and the judgment was pronounced against other accused. Case against A4(accused herein) was split up and refiled as the above case. The above accused arrested and produced before the court and he was released on bail. The above accused faced trial in CC 1227/18 upto the stage of questioning u/s. 313 Cr.PC. Hence, accused was questioned u/s 313 Cr.P.C. He denied all the incriminating circumstances appearing in evidence against him. Thereafter, accused was called upon to enter his defence and to adduce his evidence. No evidence was adduced on the side of the defence.

5. I have heard both sides.

6. The following points arise for consideration.

- (1) Has the prosecution proved that the accused illegally cut and removed sandalwood trees and thereby committed the offence punishable under section 47(A),(B),(C),(F), (G)&(H), 52 and 61A of Kerala Forest Act 1961?
- (2) If found guilty, what is the order as to sentence and punishment?

7. **Point No.1:-** Before going into the legal aspect of this case, it is better to go through the evidence adduced by the prosecution in brief. The

prosecution examined PW1 to PW3 and marked Ext.P1 to P6 documents to prove the occurrence. PW1 and PW2 are the alleged officers who detected the offence and PW3 is the person who investigated the offence. When PW1 mounted the box, he deposed that acting on a tip-off, he inspected the Panneri Theiya community crematorium and found that the accused had illegally cut and removed sandalwood trees from the crematorium without any authorisation. More than 5 kg of sandalwood pieces were seized from the possession of the accused. After that, the accused were arrested, mahazar was prepared, and mahazar was marked as Ext.P1. The arrest and inspection memo of the accused is marked as Ext.P2 series. He further deposed that he could identify the accused and, by experience, could identify the sandalwood.

8. PW2 also deposed in tune with the evidence given by PW1, and he further deposed that he attested in form A1 mahazar and the same marked as Ext.P3, and the witnesses identified the accused while they were in the box.

9. PW3, then working as a Range Forest Officer at Taliparamba, deposed before the court that he identified Ext.P1 and P3 mahazars and recorded the confession statement of the accused and the confession statement of the accused marked as Ext.P4 series. Thereafter, the sandalwood, allegedly seized from the accused's possession, was confiscated as per Ext.P6 document and, after obtaining the prosecution sanction, filed a complaint before the court.

10. The learned Assistant Public Prosecutor at the time of argument before the court has vehemently argued that the prosecution has proved the guilt of the accused beyond reasonable doubt. No profound contradictions or omissions present the evidence of the witnesses. All the documentary evidences were unerringly pointed out towards the guilt of the accused. Hence, he prayed to award an appropriate sentence against the accused.

11. Per contra, the learned counsel for the accused vehemently refuted the arguments the learned Assistant Public Prosecutor put forward. According to him, except the verbatim exercise made by the witnesses, no incriminating circumstances were brought out by the prosecution against the accused. The documentary evidence never revealed that the accused has allegedly cut and removed the sandalwood. Moreover, the absence of the office bearers as accused were created doubt in the case of the prosecution. Hence, he prayed for an acquittal in this case.

12. The offences which were alleged against the accused under sections 47(A),(B),(C),(F),(G)&(H), 52 and 61A of Kerala Forest Act 1961. According to the case of the prosecution, the accused were illegally cut and, removed and possessed the sandalwood trees for monetary gain and getting on a tip-off, PW1 and PW2 reached the place of incident and apprehended the accused and seized the sandalwood.

13. The counsel for the accused stealthily cross-examined the witnesses. At the time of the argument before the court, he highlighted the non-availability of independent witnesses and argued that the absence of independent witnesses created doubt in the case of the prosecution. After closing the argument, detailed notes of the argument also filed by the counsel for the accused.

14. On going through the notes of the argument, it can be seen that the first point that was contended by the counsel for the accused is regarding the absence of independent witnesses. In my view, the lack of independent witnesses will not always create doubt in the case of the prosecution. There may be many situations where independent witnesses will not be available, and the court cannot seek corroboration of the evidence by the independent witnesses in every situation. If the evidence of the police officer or the authorities concerned is trustworthy, then in such circumstances, the lack of independent witnesses will not create any doubt in the case of the prosecution. So, according to this court, the argument put forward by the learned defence counsel regarding the lack of independent witnesses has not much force in the eye of the law.

15. The crucial aspect that has to be considered in the case is place of incident. According to the prosecution, the contraband articles were seized from the Panneri Theiya community crematorium. So, there can be no room for doubt that a community runs the crematorium and it has office bearers also. The prosecution examined no such office bearers in this case,

and this aspect was categorically cross-examined by the counsel for the accused when PW1 and PW2 mounted the box. Moreover, very interestingly, no complaint was filed by the committee's office bearers. If the articles were seized from the crematorium, then why the prosecution not cited office bearers as witnesses in the present case in a crucial question, not answered by the prosecution. In my view, the office bearers are the best person to speak about the presence of sandalwood trees in the crematorium. Moreover, there is no evidence to prove that the crematorium, as the prosecution alleged, existed. It is trite law that to run a crematorium by a private committee, there should obtain a sanction from the local authorities concerned. No such documents were produced and the prosecution can very well call for the records to prove there was a crematorium which the committee ran, the prosecution took no such steps to confirm that aspect. As stated above, at least the office bearers of the committee can be examined before the court to prove this aspect. Nothing was done by the prosecution in the present case. Moreover, on going through the evidence of PW1 and PW2, it was revealed that the accused stated before PW1 and PW2 they were only a coolie workers hired by the office bearers of the committee.

16. The next point that the learned counsel argued for the accused was regarding the confession statement of the accused. It is a settled position of law that in **Luca Beltrami and Others v. State of Kerala (2020 (4) KHC 603)**, the court held that the Forest Range Officer and the Deputy Forest Range Officer by whom the enquiries into the alleged

offence have been made and confession statements of the petitioners have been recorded, are not empowered by the Act to do so. In the said circumstances, the proceedings conducted by them are illegal without authority invested by the Act. So, after analysing the evidence of witnesses and also oral evidence of PW1 to PW3, I am of the view that the non-examination of the office bearers of the committee and the non-production of the documents regarding the existence of the crematorium as created a doubt in the case of the prosecution. It is a settled position of law that when doubt is created in the case of the prosecution having arisen of such a situation, it should necessarily go to the accused. I have no hesitation in holding the view as a fair stage. Hence, I believe that the accused is entitled to an acquittal in this case, and the point is answered in favour of the accused.

17. **Point No. 2:-** In view of the discussion on point No.(i), the accused is found not guilty of the offence punishable u/s. 47(A),(B),(C), (F),(G)&(H), 52 and 61A of Kerala Forest Act 1961.

In the result, accused is found not guilty of the offence punishable under section 47(A),(B),(C),(F),(G)&(H), 52 and 61A of Kerala Forest Act 1961 and he is acquitted under section 248 (1) of code of criminal procedure. His bail bonds stands cancelled and he is set at liberty.

( Dictated to the confidential assistant, transcribed and typed by her, corrected and pronounced by me in open court, on this, the 5<sup>th</sup> day of May 2026).

Sd/-  
JUDICIAL FIRST CLASS MAGISTRATE,  
TALIPARAMBA

## APPENDIX

### List of Prosecution/Defence/Court Witnesses

#### A. Prosecution Witnesses

Rank	Name	Whether Eye witness, Police witness, Expert witness, Medical witness, Other witness
PW1	K.V.Vinodan	Police witness
PW2	Ramadasan	Police witness
PW3	Soloman Thomas George	Police witness

B. Defence witness : NIL

C. Court witness : NIL

### List of Prosecution/Defence/Court Exhibits

#### A. Prosecution Exhibits

Sl.No.	Exhibit number	Description
1	Ext.P1	Mahazar dated 01.11.2016

2	Ext.P2	Arrest memo of A5 dated 01.11.2016
3	Ext.P2(a)	Arrest memo of A2 dated 01.11.2016
4	Ext.P2(b)	Arrest memo of A3 dated 01.11.2016
5	Ext.P2(c)	Arrest memo of A4 dated 01.11.2016
6	Ext.P2(d)	Arrest memo of A1 dated 01.11.2016
7	Ext.P2(e)	Inspection memo of A4 dated 01.11.2016
8	Ext.P2(f)	Inspection memo of A2 dated 01.11.2016
9	Ext.P2(g)	Inspection memo of A3 dated 01.11.2016
10	Ext.P2(h)	Inspection memo of A1 dated 01.11.2016
11	Ext.P2(i)	Inspection memo of A5 dated 01.11.2016
12	Ext.P3	Form A1 mahazar dated 01.11.2016
13	Ext.P4(a)	Confession statement of A3 dated 01.11.2016
14	Ext.P4(b)	Confession statement of A1 dated 01.11.2016
15	Ext.P4(c)	Confession statement of A4 dated 01.11.2016
16	Ext.P4(d)	Confession statement of A5 dated 01.11.2016
17	Ext.P4(e)	Confession statement of A2 dated 01.11.2016
18	Ext.P5	Prosecution sanction dated 27.06.2017
19	Ext.P6	Order of Divisional Forest Officer, Kannur

B. Defence Exhibits : NIL

C. Court Exhibits : NIL

D. Material Objects : NIL

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