

IN THE COURT OF THE JUDICIAL MAGISTRATE OF FIRST CLASS,
PATTAMBI

Present:- Smt. Neema Noor Mohamed, Judicial Magistrate of First Class,
Friday, this the 8th day of May, 2026.

C.M.P. No. 02/2026 in C.C. No. 105/2017.

1. P. Muhammed Navas, S/o. Alavi, Parammel : Petitioners/ 1st and 2nd Accused
House, Kalladipatta, Maruthur, Palakkad.
2. P. Musthafa, S/o. Abu, Parammel House,
Kalladipatta, Maruthur, Palakkad.
(By Adv. Sri. V.P. Manojkumar)

Vs.

State represented by the Forest Range Officer, : Respondent/Complainant
Forest Range Office, Ottapalam in OR No. 12/2014
(By: Smt. Resmi.V.S., Gr.II A.P.P.)

ORDER

This application is filed by the 1st and 2nd accused seeking discharge.

2. The complaint case, in brief, is that on 22/04/2014, based on secret information that sandalwood was being transported on a motorcycle bearing registration No. KL 52 4073, the forest officials reached the Pattambi–Kulappulli road in their official vehicle and conducted inspection. During the course of checking, the said motorcycle was spotted, stopped, and examined. Upon inspection, a big shopper bag in the possession of 2nd accused Musthafa, who was seated on the pillion, was checked and sandalwood pieces along with a chopper were recovered. The rider of the motorcycle was 1st accused Muhammed Navas. Both of them, along with the motorcycle bearing registration No. KL 52 4073, the sandalwood pieces, the chopper, and the big shopper bag, were taken into custody. On inquiry regarding the source of the sandalwood pieces, they stated that the sandalwood had been purchased and cut from a sandalwood tree situated in the property of 5th accused A.K. Bava Haji @ Vavachi located in the Kodumunda–Paruthur area. It was further revealed that 1st accused Muhammed Navas had purchased the sandalwood for ₹600 from 4th accused Yusuf, the brother-in-law of 5th accused Bava Haji, who resides near the said property. 2nd accused Musthafa and 1st accused Muhammed Navas also stated that they were

transporting the sandalwood to 3rd accused Luckman residing at Vallappuzha, with 2nd accused Musthafa assisting in the said act.

3. The accused seeks discharge mainly contending that the prosecution case is founded upon the confession allegedly recorded by the Forest Range Officer and that there are no sufficient materials to proceed against the accused. Reliance is placed on the decision of the Hon'ble High Court of Kerala in ***Luca Beltrami v. State of Kerala 2020 (4) KHC 603***, wherein it was held that only officers not below the rank of Assistant Conservator of Forests are empowered under Section 72 of the Kerala Forest Act to hold inquiries into forest offences and, in the course of such inquiries, receive and record evidence.

4. The accused further contends that the sandalwood allegedly seized weighed only 900 grams and therefore the offence under Section 47 of the Kerala Forest Act is not attracted.

5. On the side of the prosecution, evidence under Section 244 Cr.P.C. was adduced. PW1, the Forest Guard, deposed regarding interception of the motorbike and seizure of sandalwood logs and knife. PW2, the Forest Range Officer, deposed that he had prepared Ext.P3 property list and identified MO1 sandalwood logs and MO2 to MO5 series. PW2 further stated that the confession statement of the 1st accused was recorded by him and based on the said confession the crime was registered. PW3 was examined as a witness to Form No. II.

6. At this juncture it is relevant to understand what Section 72 of the Kerala Forest Act speaks on. According to this section, the Government may invest any Forest Officer not below the rank of an Assistant Conservation of Forests with all or any of the following powers, and may withdraw the same:-

- (a) power to enter upon any land and to survey, demarcate and make a map of the same,
- (b) powers of a Forest Settlement Officer;
- (c) powers of a Civil Court to compel the attendance of witnesses and the production of documents;
- (d) power to hold inquiries into forest offences and, in the course of such inquiries, to receive and record evidence and to issue search warrants which

may be executed in the manner provided by the Code of Criminal Procedure, 1898;

(e) power to accept compensation for forest offences under section 68 of this Act

Any evidence recorded under clause (d) of this section shall be admissible in any subsequent trial of the alleged offender before a Magistrate; provided that it has been taken in the presence of the accused person and recorded in the manner provided by the Code of Criminal Procedure, 1898.

7. From the above provision, it is clear that Forest Officers not below the rank of Assistant Conservator of Forests are not vested with the power to hold inquiries into forest offences and, in the course of such inquiries, receive and record evidence. This provision was discussed at in length in *Luca Beltrami (Supra)*, wherein the Hon'ble High Court of Kerala held that the power to conduct inquiries and record evidence under Section 72 is confined to officers not below the rank of Assistant Conservator of Forests.

8. But subsequently it was held in verdict of *Gopi Vs. State of Kerala 2024 (1) KHC 223*, by the Hon'ble High Court of Kerala that a statement recorded by a Forest Range Officer, though not amounting to a judicial confession, may still fall within the ambit of an extra-judicial confession and its admissibility would be governed by the settled principles relating to extra-judicial confession. The court further held that it is well settled that an extra-judicial confession is a weak piece of evidence and ordinarily requires corroboration. Relying on the verdict of Hon'ble Supreme Court in *Pawan Kumar Chourasia v. State of Bihar 2023 KHC 6253*, the Hon'ble Apex Court reiterated that an extra-judicial confession can be relied upon only when it inspires confidence and is shown to be voluntary and truthful unless corroborated. In the said verdict the Hon'ble High Court further went to say that the alleged confession made before a Forest Range Officer, who is admittedly an officer empowered to initiate proceedings and set the criminal law in motion though admissible as an extra-judicial confession, it remains a weak piece of evidence requiring satisfactory corroboration.

9. In the case in hand, on careful evaluation of the materials on record it shows that there is absolutely no independent material to prima facie establish that either of the accused had trespassed into reserved forest or committed any act constituting offences punishable under Sections 47(c) and 47(f) of the Kerala Forest Act. Except the alleged confession statement recorded by PW2, no independent evidence or corroborative circumstance has been brought on record to show the alleged trespass, illicit removal, or conscious possession of sandalwood from forest area. No independent witness has been examined to establish the place of occurrence or the involvement of the accused in any forest offence.

10. Further, the prosecution allegation itself is that the sandalwood seized weighed only 900 grams. Prima facie, the essential ingredients attracting Section 47(c) of the Kerala Forest Act are also not made out as the sandalwood quantity exceeding 1 kg alone is penalised as per this Act.

11. At the stage of Section 245 Cr.P.C., if the evidence produced by the prosecution, even if unrebutted, does not disclose sufficient grounds for proceeding against the accused, the accused is entitled to discharge. In the present case, this Court finds that the materials presently available are insufficient to make out a prima facie case warranting continuation of the proceedings against the accused.

In the result,

The 1st and 2nd accused are discharged under Section 245 Cr.P.C.

Pronounced by me in open court, this the 8th day of May, 2026.

Sd/-

Judicial Magistrate of First Class,
Pattambi.

//True Copy//

Judicial Magistrate of First Class,
Pattambi.