

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. 03/2026 in C.C. No. 105/2017.

Yousaf, S/o. Saithali, Thottathil House, Paruthur, : Petitioner/ 4th Accused
Pattambi
(By Adv. Smt. S Nisha Vijayakumar)

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 4th accused seeking discharge.

2. The prosecution case, in brief, is that on receiving secret information that a motorbike bearing Registration No. KL 52 4073 was being used for illegally transporting sandalwood logs, the forest officials intercepted the vehicle. On inspection, sandalwood logs weighing about 900 grams and a knife were allegedly recovered from a shopper bag carried on the bike. The accused was thereafter apprehended and the occurrence report was registered.

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 2024 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 CDs. PW2 further stated that the confession statement of the 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. Section 72 of the Kerala Forest Act vests Forest Officers not below the rank of Assistant Conservator of Forests with the power to hold inquiries into forest offences and, in the course of such inquiries, receive and record evidence. In ***Luca Beltrami (Supra)***, 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.

7. At the same time, subsequent decisions have clarified that a statement recorded by a Forest 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. It is well settled that an extra-judicial confession is a weak piece of evidence and ordinarily

requires corroboration. *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.

8. In the present case, the alleged confession was made before a Forest Range Officer, who is admittedly an officer empowered to initiate proceedings and set the criminal law in motion. Therefore, even assuming that the statement is admissible as an extra-judicial confession, it remains a weak piece of evidence requiring satisfactory corroboration.

9. A careful evaluation of the materials on record shows that there is absolutely no independent material to establish that 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 prove 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 of the Kerala Forest Act are also not made out.

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 to 4th 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.