

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE I,
ALATHUR.**

Present:- Sri. Induchoodan. A.,
Judicial First Class Magistrate.

Tuesday, this the 31st day of March, 2026.
10th day of Chaithra, 1947 (S.E)

Calendar Case No.589/2016

Complainant : State Represented by Forest Range
Officer, Nelliampathy Range in OR
9/2014 of Nelliampathy Forest Range.
(BY Adv. Sri. Hari Kishan P.R,
APP.Gr.II, Alathur)

DESCRIPTION OF ACCUSED

Sl. No.	Name	Father's name	Occupation	Residence	Age
1.	Senthamil Kannan	Sadanandam	Business	Mahalakshmi Appartment, Vallanghy, Nemmara	61

(BY Adv. Sri. Jacob Mathew)

Offence : Punishable U/ss. 2(2), 2(14), 2(31), 39, 40, 50 and 51 of the Wildlife (Protection)Act, 1972 and under Section 47(1)(i), (f)(1), (g) (3) of the Kerala Forest Act as amended in 1993 and 2010.

Pleading : Not guilty

Finding : Not Guilty

Sentence or Order : The accused is found not guilty of the offence punishable under Sections 2(2), 2(14), 2(31), 39, 40, 50 and 51 of the Wildlife (Protection) Act, 1972 and Sections 47(1)(i), (f)(1), (g)(3) of the Kerala Forest Act as amended in 1993 and 2010 and he is acquitted u/s.248(1) of the Code of Criminal Procedure, 1973. His bail bond stands cancelled and he is set at liberty.

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DATE OF

Occurrence	Complaint	Apprehension	Released on bail	Commencement of trial	Close of trial	Sentence or Order
22.05.2014	22.05.2014	16.11.2016	16.11.2016	20.10.2022	30.03.2026	31.03.2026

This case is coming on for today's proceedings, the court delivered the following:

J U D G M E N T

This is a complaint filed against accused by the Forest Range Officer, Nelliampathy Range, for the offence punishable under Sections 2(2), 2(14), 2(31), 39, 40, 50 and 51 of the Wildlife (Protection) Act, 1972 and Sections 47(1)(i), (f)(1), (g)(3) of the Kerala Forest Act as amended in 1993 and 2010.

2. The prosecution case, in brief, is that on 22.05.2014, based on reliable information received as part of “Operation Kubera”, the Sub Inspector of Police, Nenmara Police Station, along with the police party, conducted a search at the house of the accused situated at Vellangi, Nenmara Panchayat, Ward No.3, House No.148, which falls within the jurisdiction of Nenmara Forest Division, Nelliampathy Range, Pothundi Section. During the search, two deer horns and seven pieces of wood having sandalwood smell were allegedly found concealed inside a measuring vessel kept on a shelf in the pooja room on the first floor of the house. It is alleged that the accused had kept the said articles without any permit or authority. Accordingly, Nenmara Police registered Crime No.719/2014 and arrested the accused. Later, the case was transferred to the Forest Department for further investigation, and the Forest Range Office registered O.R. No. 09/2014, alleging the above offences. Following the investigation, this complaint was filed.

3. On appearance of the accused on summons he was enlarged on bail. Copies of relevant prosecution records were furnished to him. PW1 to PW8 were examined as part of pre-charge evidence and Exbts.P1, P1(a) P2 to P8, P9 series and P10 were marked. On perusal of the materials and hearing both sides charge was framed Sections 2(2), 2(14), 2(31), 39, 40, 50 and 51 of the Wildlife

(Protection) Act, 1972 and under Section 47(1)(i), (f)(1), (g)(3) of the Kerala Forest Act as amended in 1993 and 2010. Charge was read over and explained to the accused. He pleaded not guilty. PW1 to PW8 were recalled and the defence counsel cross-examined them. Thereafter an additional witness was examined as PW9.

4. On closure of prosecution evidence accused was questioned under Sec. 313 (1) (b) of the Cr.P.C as to the incriminating circumstances appearing in the evidence. He denied the incriminating circumstance and maintained innocence. Neither oral nor documentary evidence were adduced from the side of the accused.

5. Both sides have been heard.

6. Having heard both sides, so also on going through the evidence, following points have come up for consideration :-

1. Whether the prosecution has proved beyond reasonable doubt that the seized horns are genuine deer horns and come within the definition of "trophy/animal article" under the Wildlife (Protection) Act, 1972.

2. Whether the prosecution has proved beyond reasonable doubt that the seized wooden pieces are sandalwood as contemplated under the Kerala Forest Act.
3. Whether the prosecution has proved that the seized articles were recovered from the conscious and exclusive possession of the accused.
4. Whether the prosecution has established proper chain of custody of the seized articles, including sealing, packing, labeling, and safe custody, so as to rule out tampering.
5. Whether the investigation conducted by the authorised forest officer is proper and sufficient to sustain conviction, or whether the case is vitiated by material lapses.
6. Whether the prosecution has proved the ingredients of the offences punishable under Sections 39, 40, 50 and 51 of the Wildlife (Protection) Act, 1972 and Section 47 of the Kerala Forest Act.
7. If found guilty, what is the proper sentence to be imposed ?

7. **Points 1 to 6 :** These points are considered together for brevity and convenience. Before entering into a discussion on points it is necessary to go

through the evidence adduced from the side of the prosecution. PW1 deposed that he was present along with PW3 at the time when the seized articles were inspected in court as per the direction of the Forest Department. PW1 stated that on examination, the two horns were understood to be deer horns and the seven wooden pieces were understood to be sandalwood pieces. PW1 further stated that the horns appeared to be more than 15 years old and the sandalwood pieces appeared to be more than 10 years old. PW1 stated that he signed the mahazar prepared in connection with such inspection.

8. PW2, who was working as Senior Civil Police Officer at Nenmara Police Station, deposed that he accompanied PW6 Sub Inspector of Police during the search conducted at the house of the accused. PW2 stated that he was present at the time when the horns and wooden pieces were seized from the house. PW2 supported the prosecution version regarding the search and seizure, however he stated in cross examination that he does not remember whether the seized articles were packed and sealed at the spot and he had not seen the accused personally handling the seized items.

9. PW3, who was working as Forester in Pothundi Section under Nelliampathy Forest Range, deposed that on 09.06.2014, as per the instructions of the Range Officer and based on court permission, he inspected the seized

properties which were produced before court in Crime No.719/2014. PW3 stated that on examination he understood that the two horns were deer horns belonging to “Mlaavu” species and the seven wooden pieces were sandalwood. PW3 stated that he prepared a mahazar regarding such inspection, which was marked as Ext.P1.

10. PW4, who was a Civil Police Officer attached to Nenmara Police Station, deposed that he accompanied PW6 Sub Inspector during the search conducted at the house of the accused and was present when the articles were seized. PW4 stated that he assisted PW6 in conducting the search and seizure. PW4 supported the prosecution case regarding the recovery of the articles from the house of the accused.

11. PW5, who was also a Civil Police Officer attached to Nenmara Police Station, deposed that she accompanied PW6 during the search and was present when the articles were seized. PW5 stated that she also assisted PW6 in conducting the search and seizure and supported the prosecution version regarding the seizure.

12. PW6, the Sub Inspector of Police, Nenmara Police Station, deposed that on 22.05.2014 he received reliable information that the accused was illegally conducting money lending business without licence. PW6 stated that

based on such information, he prepared a search memorandum and proceeded to the house of the accused at Vellangi along with the police party and independent witnesses and conducted search at about 11.15 hours. PW6 stated that from the shelf on the northern wall of the pooja room on the first floor, two horns suspected to be deer horns were found concealed inside a measuring vessel. PW6 further stated that seven wooden pieces of various sizes having sandalwood smell were also found. PW6 stated that when questioned, the accused did not give any satisfactory explanation and failed to produce any licence or permit. PW6 stated that he arrested the accused, prepared arrest memo and inspection memo, and thereafter prepared the search list and seized the properties. PW6 stated that thereafter he returned to the station along with the accused and the seized articles, registered Crime No.719/2014, prepared the FIR and produced the seized properties before court along with property list. PW6 further stated that the accused was produced before court with remand report and later the case was transferred to the Forest Department for further investigation.

13. PW7, who was the Secretary of Nenmara Grama Panchayat, deposed that on 21.07.2015, on the request made by the Forest Range Officer, he issued ownership certificate in respect of House No.148 situated in Ward No.3 of

Nenmara Grama Panchayat. PW7 stated that Ext.P8 is the ownership certificate issued by him and as per the records of the Panchayat, the said house stands in the name of the accused.

14. PW8 deposed that during 2013-2014 he was working as the Forest Range Officer, Nelliampathy Range. PW8 stated that after receiving the case registered by Nenmara Police as Crime No.719/2014, he registered the forest offence case as O.R No.09/2014. PW8 stated that Ext.P10 is the Form-I report prepared by him. PW8 further stated that after obtaining court permission, the seized properties were inspected and mahazar was prepared and he verified the same, which was marked as Ext.P1(a).

15. PW9, who was cited as an independent witness, deposed that he signed the search list as a witness. PW9 stated that Ext.P4 contains his signature and he had signed the same at the time of seizure.

16. **Analysis**

The burden lies entirely upon the prosecution to prove the guilt of the accused beyond reasonable doubt. In the present case, the core allegation is that the accused was in illegal possession of deer horns and sandalwood pieces without permit.

17. The first and most crucial deficiency in the prosecution case is that the seized materials were not subjected to any scientific or forensic examination. No expert opinion report was produced to conclusively establish that the horns are genuine deer horns or that the wooden pieces are sandalwood. The prosecution relies mainly on the opinion of PW1 and PW3, who identified the materials based on their experience and training.

18. During cross examination, PW1 categorically admitted that it was not scientifically examined whether the horns are real deer horns or artificially made to resemble deer horns. PW1 admitted that he did not seek the help of any expert, did not cut open the horns to verify, and that his opinion was only based on visual identification as he had seen such horns earlier. PW1 also admitted that he did not record the colour difference of the horns and that his assessment regarding the age was only approximate. Regarding the wooden pieces, PW1 admitted that sandalwood smell may also be present in “Akhil” tree and his identification was only based on smell and training.

19. The above admissions clearly create serious doubt regarding the identity and nature of the seized items. When the very foundation of the prosecution case is the nature of the seized articles, the prosecution is expected

to produce strong and scientific evidence. Mere visual and smell-based identification cannot be treated as conclusive proof in a criminal trial.

20. The second serious defect is regarding the chain of custody. PW2 stated that he does not remember whether the seized items were packed and sealed. PW4 and PW5 clearly stated that the seized articles were not packed and sealed at the time of seizure. PW3 admitted that when he examined the properties in court, they were not inside sealed covers and were only having labels, and he further admitted that the fact of labeling was not mentioned in the mahazar. PW3 also admitted that Ext.P9 series photographs were not taken in his presence and he cannot say who took them, where they were taken, or which wood piece was photographed. These circumstances create genuine doubt regarding safe custody and possibility of tampering.

21. Thirdly, the prosecution has not proved conscious possession of the accused. PW6, during cross examination, admitted that he did not seize anything from the hands of the accused and he did not personally see the accused handling the seized items. PW2, PW4 and PW5 also admitted that they had not seen the accused handling the articles. Therefore, the seizure is only from a shelf inside the house and not from the direct possession of the accused.

22. Further, PW6 admitted that at the time of search, he did not verify the house records. PW6 also admitted that the searched building was part of “Mahalakshmi Apartment” and he is unable to state how many persons were residing there. This creates doubt whether the searched premises was under the exclusive possession and control of the accused.

23. Moreover, PW6 admitted that in Ext.P2 arrest memo, the signature was obtained only from the wife of the accused and no independent witnesses have signed. Though the prosecution claims that independent witnesses were present, their effective participation in the seizure procedure is doubtful.

24. Another important aspect is that the prosecution has not collected any evidence regarding the origin of the seized items. There is no evidence to show from where the horns and wood pieces were collected, when they were collected, or whether the accused had any role in procuring or collecting them. The prosecution has not proved any link between the accused and any illegal hunting or illegal sandalwood cutting. In such circumstances, mere presence of certain articles inside a house cannot automatically establish guilt unless conscious possession is clearly proved.

25. It is also to be noted that the authorised Forest Range Officer, who is expected to conduct detailed investigation, has not made any serious effort to

secure expert confirmation or scientific analysis. The investigation appears to be only formal in nature, mainly relying on police documents and inspection mahazar. Such an investigation is insufficient to sustain a conviction under serious penal provisions.

26. In a criminal trial, suspicion, however strong, cannot take the place of proof. The evidence adduced by the prosecution leaves several reasonable doubts regarding the identity of the articles, the chain of custody, and the conscious possession of the accused. Therefore, this Court finds that the prosecution has failed to prove the guilt of the accused beyond a reasonable doubt. Hence, these points are found against the prosecution.

27. Point No.7:-

In view of my findings on Points Nos 1 to 6, the accused is found not guilty of the offences charged against him. Hence, this point does not arise for consideration.

In the result, the accused is found not guilty and is acquitted u/s.248(1) of the Cr.P.C for the offences punishable under sections 2(2), 2(14), 2(31), 39, 40, 50 and 51 of the Wildlife (Protection) Act, 1972 and Sections 47(1)(i), (f)(1), (g) (3) of the Kerala Forest Act as amended in 1993 and 2010. He is set at liberty.

The bail bond of accused stands cancelled. The MO1 series (Two in numbers) horns shall be destroyed in accordance with the law after the expiry period of the appeal.

(Prepared, typed and pronounced by me in Open Court on this the 31st day of March, 2026.)

sd/-
Judicial First Class Magistrate - I
Alathur.

APPENDIX

Witnesses examined on the side of Prosecution:-

Rank	Name of Witness	Date of Examination	Category of Witness
PW 1	Hussain	24.07.2019	Mahazar witness
PW 2	Prassannan	17.02.2020	Official witness
PW 3	Suresh Babu	26.10.2021	Mahazar witness
PW 4	Peethambaran	16.11.2021	Official witness
PW 5	Shakeela	21.12.2021	Official witness
PW 6	Sandeep Kumar	23.08.2022	Official witness
PW 7	Shajahan	23.08.2022	Official witness
PW 8	A P Imthyas	17.04.2024	Official witness
PW 9	Chandran	12.03.2026	Material witness

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Exhibits marked for Prosecution:-

Sl. No.	Exhibit Number	Description of the Exhibit	Proved by/ Attested by
1	Exhibit P1	Mahazar dated 09.06.2014	PW1
2	Exhibit P1(a)	Mahazar verification dated 10.06.2014	PW8
3	Exhibit P2	Arrest Memo dated 22.05.2014	PW6
4	Exhibit P3	Inspection Memo dated 22.05.2014	PW6
5	Exhibit P4	Search List dated 22.05.2014	PW6
6	Exhibit P5	First Information Report in Crime number 719/2014 dated 22.05.2014	PW6
7	Exhibit P6	Property list dated 22.05.2014	PW6
8	Exhibit P7	Search Memorandum dated 22.05.2014	PW6
9	Exhibit P8	Ownership Certificate dated 21.07.2015	PW7
10	Exhibit P9 Series	Photos and CD	PW1
11	Exhibit P10	Form I	PW8

Defence Witness	:	Nil
Defence Exhibits	:	Nil
Court Witness	:	Nil
Court Exhibits	:	Ni

Material objects Marked		
Sl.No.	Description	Proved by/ Attested by
1	Mo1 Series-Deer Horns (2 nos)	PW1

sd/-
Judicial First Class Magistrate - I,
Alathur.

//True copy//

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