


MHGA090006762015 	Presented on	:	11	01	2016
	Registered on	:	11	01	2016
	Decided on	:	12	05	2026
	Duration	:	10	08	01
			Y	M	days

Part 'A'

(Para 44 (i) of Chapter VI of Criminal Manual)

Exh No.86	
	IN THE COURT OF JUDICIAL MAGISTRATE, FIRST CLASS, CHAMORSHI AT GADCHIROLI (Present S. A. Bhaisare) [Date of Judgment : 12/05/2026]
	Regular Criminal Case No. 1200070/2015
	CNR NO. MHGA090003672023
Complainant	The State of Maharashtra Through R.F. O of Forest Office Markanda, Chamorshi Tq.-Chamorshi, Dist.-Gadchiroli.
Presented By	Learned A.P.P. Shri. D.V. Donadkar
Accused	1. Rajanna Payanna Yelkunchiwar, Age about: 35, Occ.- Labour, R/o. Borampalli, Po. Tekada Tala, Tah. Sironcha, Dist. Gadchiroli 2. Vyankatswami Satyam Ramteke, Age about: 30, Occ.- Labour, R/o. Borampalli, Po. Tekada Tala, Tah. Sironcha, Dist. Gadchiroli
Represented by	Learned Advocate Shri. M. D. Sahare

Part 'B'

(Para 44 (ii) of Chapter VI of Criminal Manual)

Date of offence	27/11/2012
Date of Complaint	11/01/2015
Date of Chargesheet	Nil

Date of Framing of Charges	06/12/2025
Date of Commencement of evidence	09/02/2016
Date on which Judgment is reserved	Nil
Date of Judgment	12/05/2026
Date of the Sentencing Order, if any	-----

Accused Details

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offence Charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention Undergone during trial for purpose of section 428 Cr.PC.
1.	Rajanna Payanna Yelkunchi war	29.11.2012	30.11.2012	Section 9, 27, 29, 34, 39, 44, 48 r/w sec. 51 and 52 of the Wildlife (Protection) Act, 1972,	They are acquitted of the offence punishable under S. 9, 27, 29, 34, 39, 44, 48 r/w sec. 51 and 52 of the Wildlife (Protection) Act,	Nil	Nil
2.	Vyankatswami Satyam Ramteke,	06.05.2018	23.05.2018	S.26(1) of the Indian Forest Act, 1927 r/w S.34 of the Indian Penal Code, 1860	the Wildlife (Protection) Act, 1972, S.26(1) of the Indian Forest Act, 1927 r/w S.34 of the Indian Penal Code, 1860 in view of section 248(1) of the Criminal Procedure Code, 1973.		

Part 'C'**(Para 44 (iii) of Chapter VI of Criminal Manual)
LIST OF PROSECUTION/DEFENCE/COURT WITNESSES
Prosecution:**

RANK	NAME	NATURE OF EVIDENCE
PW-1	Nandu Chinnuji Gurnule	Panch Witness
PW-2	Shrawan Devaji Khobragade	Informant
PW-3	Jageshwar Tukaram Nimsarkar	Forest Guard
PW-4	Santosh Durgayya Buramwar	Panch Witness
PW-5	Anandrao Malleshwar Potgantwar	Witness

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE
Nil	Nil	Nil

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE
Nil	Nil	Nil

LIST OF PROSECUTION/DEFENCE/ COURT EXHIBITS**A. Prosecution :**

Sr. No.	Exhibit Number	Description
1.	Exhibit P-16/PW.-1	Spot Panchanama
2.	Exhibit P-18/PW.-2	Moka Panchnama
3.	Exhibit P-19/PW.-2	Preliminary Offence Report
4.	Exhibit P-20/PW.-2	Map

B. Defence:

Sr.No.	Exhibit Number	Description
--------	----------------	-------------

1.	Nil	Nil
----	-----	-----

C. Court Exhibits:

Sr.No.	Exhibit Number	Description
1.	Nil	Nil

D. Material Objects:

Sr.No.	Material Object Number	Description
1.	Nil	Nil

JUDGMENT

(Delivered on 12th May 2026)

The accused no.1 and 2 are facing trial for the offence punishable under S.9, 27, 29, 34, 39, 44, 48 r/w S. 51 and 52 of the Wildlife (Protection) Act, 1972 (in short 'the Act, 1972'), S.26(1) of the Indian Forest Act, 1927 r/w S.34 of the Indian Penal Code, 1860 (in short 'I.P.C.').

2. The warp and woof of the case are that on 27-11-2012 the complainant namely, Shri S.D. Khobragade received secret information that skin of a wild animal is being transported from Mouza Sironcha to Ashti. The complainant formed a raiding party comprising of forest officers, Markhanda. Thereafter, the raiding team reached near Bus Stop, Ashti and took their respective positions. After sometime, the accused no.1 Rajanna Payanna Yelkunchiwar was seen standing suspiciously with a cream coloured bag. After due inquiry, the bag was checked and it was found containing one uncured chital (Axis Axis) skin. When he was asked how he secured the chital skin, he explained that accused no.2

asked him to come with him with the said bag to Ashti and that the accused no.2 fled away after giving excuse of natural call. The skin of chital was around two years old and contained two holes. The species of chital is covered under Schedule II of Wild Life (Protection) Act, 1972. Therefore, the recovered skin was seized and an POR No. 240/40 dated 27/11/2012 was registered against the accused no.1. Accused no.2 was arrested on 29/11/2012. After completion of investigation, present complaint was filed against both the accused.

3. The accused were summoned. Copies of complaint and of documents were supplied. In pre-charge evidence, the prosecution examined four witnesses. Thereafter, a charge was framed against both the accused for the offence punishable under S.51 r/w S. 9, 27, 29, 39, 44, 48 of the Wildlife (Protection) Act, 1972, S.26(1) of the Indian Forest Act, 1927 r/w S.34 of the Indian Penal Code, 1860. It was read over and explained to them in vernacular. They pleaded not guilty and claimed trial.

4. The matter was fixed for post-charge evidence. In post charge evidence, the prosecution examined PW-5. On completion of the prosecution evidence, the statement of the accused under S.313(1)(b) of The Criminal Procedure Code, 1973 (in short 'Cr.P.C.') was recorded at Exh. 82 and 83. They denied all the incriminating circumstances appearing against them. The accused have neither examined themselves nor examined any witness in their support.

5. Following points arise before me for determination and my finding thereupon with reasons therefor are as under:

Sr. no.	Points for determination	Findings
1.	Whether the prosecution proves that on 27-11-2012 at Ashti Bus Stop the accused, in furtherance of their common intention, were found in possession of Chital (Axis Oxis) skin for the purpose of dealing without any licence and thereby committed an offence punishable under S.51 r/w S. 9, 27, 29, 39, 44, 48 of the Act, 1972 r/w S.34 of the IPC?	No
2.	Whether the prosecution proves that on aforesaid date and place, the accused, in furtherance of their common intention, attempted or abeted the contravention of any of the provisions of this Act, 1972 or any rule or order made thereunder and thereby committed an offence punishable under S.52 r/w S.34 of the IPC?	No
3.	Whether the prosecution proves that on aforesaid date and place, the accused, in furtherance of their common intention, trespassed into the reserved forest for the purpose of hunting of Chital in contravention of the provisions of Indian Forest Act, 1927 and thereby committed an offence punishable under S.26(1) of the Indian Forest Act, 1927 r/w S.34 of the IPC?	No
4.	What order?	As Per Final Order

SUBMISSIONS OF THE PROSECUTION

6. Learned APP for the State Shri D.V Donadkar has submitted that the chital is a Schedule II animal. The RFO Khobragade prepared spot and seizure panchnama. The thumb impression of the accused no.1 is not denied. The notice for the purpose of panchnama is not mandatory

as per S.100 of the Criminal Procedure Code, 1973. Merely because the panch witnesses are associated with the forest officers, their testimony cannot be discarded. There is nothing in the cross-examination of complainant witnesses. There is no enmity with the accused persons. The chital skin was found in the possession of accused no.1. The accused no.2 himself stated that the skin was chital skin and he brought the skin from accused no.2. As per S.57 of the Act, 1972, the burden shifts upon the accused. The accused has failed to rebut the presumption under S.57 of the Act, 1972. The defence of accused is not about previous enmity. For all these reasons, the prosecution has proved the guilt of accused beyond all reasonable doubts. Therefore, the accused must be convicted.

SUBMISSIONS OF THE ACCUSED

7. Per contra, Learned Advocate Shri. M.D Sahare appearing for the accused has urged that no notice was given to the panchas before drawing panchnama. The panch witnesses are forest officials and not independent panch witnesses. The prosecution has failed to prove spot and seizure panchnama. It is not clear as to who actually seized the alleged skin. CA report is not produced. The witnesses are not corroborating with each other. Accused are innocent. Hence, they are entitled for acquittal.

8. Perused the record with the able assistance of both the learned counsels. Considered the submissions of both the sides.

REASONS

AS TO POINT NO.1 TO 3:-

09. The relevant provisions of section 9, 48 and 44 are reproduced for ready reference:-

“9. Prohibition of hunting.- No person shall hunt any wild animal specified in Schedules I, II, III and IV except as provided under [section 11](#) and [section 12](#).”

“48. Purchase of animal, etc., by licensee. -

No licensee under this Chapter shall-

(a)keep in his control, custody or possession,-(i)any animal, animal articles, trophy or uncured trophy in respect of which a declaration under the provisions of sub-section (2) of section 44 has to be made but has not been made;(ii)any animal or animal article, trophy, uncured trophy or meat which has not been lawfully acquired under the provisions of this Act or any rule or order made thereunder;

*(b)(i)capture any wild animal, or(ii)acquire, receive, keep in his control, custody or possession, or sell, offer for sale or transport, any captive animal specified in Schedule I [***] or any animal article, trophy, uncured trophy or meat derived therefrom a serve such meat, or put under a process of taxidermy or make animal article containing part or whole of such animal,*

except in accordance with such rules as may be made under this Act”

“44. Dealings in trophy and animal articles without licence prohibited. -

(1)Subject to the provisions of Chapter V-A, no person shall, except under, and in accordance with, a licence granted under sub-section (4)-

(a) commence or carry on the business as-(i) a manufacturer of or dealer in, any animal article; or[* *](ii) a taxidermist; or(iii) a dealer in trophy or uncured trophy; or(iv) a dealer in captive animals; or(v) a dealer in meat; or(b) cook or serve meat in any eating-house; (c) derive, collect or prepare, or deal in, snake venom:”*

10. P.W-2 Khobragade is the informant. He testified that he received information that a person had come to sell tiger skin at Bus Stop, Ashti. Accordingly, he sent a dummy purchaser and caught the accused red handed. The accused were found in possession of chital skin in a bag. The skin and bag were seized. The spot panchnama at Exh.18, seizure panchnama at Exh.15 and POR at Exh.19 were prepared in his presence. He prepared site plan at Exh. 20. In his cross-examination, he admitted that the panch witnesses are not independent. He had not given any written notice for the purpose of panchnama.

11. P.W-3 Jageshwar is the forest official and member of raiding party. He deposed that he alongwith P.W-2 raided the accused at Bus Stop, Ashti and found chital skin in the possession of accused. His testimony reveals that he has drawn the seizure panchnama at Exh. 15 and recorded POR at Exh.19. In his cross-examination, he also admitted that no notice was given to the panch witnesses.

12. P.W-5 Anandrao is another forest official and member of raiding party. He testified more or less in line with P.W-2. He further deposed that accused no.1 stated that he brought the chital skin from accused no.2. In his cross-examination, he stated that he did not receive

any notice for panchnama. PW-1 and PW-4 are working in forest office, Markhanda.

13. Adverting to the testimony of PW-1, it evinces that he was called at forest office where accused no.1 was brought. Chital skin was seized in his presence and seizure panchnama at Exh. 16 was drawn.

14. PW-4 is the spot panch witness. He was employed as a forest labour on the day of incident. He deposed in his evidence that PW-2 opened the bag of accused no.1 in his presence. The accused no.1 was found in the possession of chital skin. The recovered skin was seized. Thereafter, spot panchnama at Exh. 18 and personal inspection panchanama at Exh. 61 were prepared in his presence. In his cross-examination, he admitted that the document was prepared at forest office and his signature was taken.

15. The Chital (Axis Axis) finds its place at Schedule II Part A at Entry no.11. The testimonies of PW-1 and PW-4 evinces that they are not independent panch witnesses. The seizure and spot panchnama at Exh. 16 and 18 were not prepared at the spot of incident but at forest office.

16. It is clear from the statement of prosecution witnesses that the place of recovery is Bus Stop, Ashti. It is a thickly populated area and public persons/passers-by were passing through. It is apparent that the spot is surrounded by shops, market, rickshaws etc. But, no independent witness was joined in the proceedings at the spot. From the statement of witnesses, it is clear that IO/complainant even did not make any sincere effort to join any public/passers-by to join the proceedings. In view of the testimony of panch witnesses who are associated with forest officials,

the non-joining of the public/independent witness makes the prosecution story doubtful and it does not inspire any confidence.

17. When the prosecution does not examine any independent witness, it casts doubt on the prosecution version and conviction should not be based on it. It is well settled law that in case of secret information, the investigating agency must make sincere efforts to join some independent witness. This requirement of joining independent witness is only to ensure that what the official witnesses are deposing is supported by such witness. The evidence of official witnesses can not be disbelieved or ignored only on the ground of their official status, but when the evidence of panch witness is found to be contrary to the story of the complaint, it certainly casts a doubt on the prosecution version.

18. Section 100, Criminal Procedure Code, 1973 contemplates that search should, as far as practicable, be made in the presence of two independent and respectable witnesses of the locality and if the designated officer fails to do so, the onus would be on the prosecution to establish that the association of such witnesses was not possible on the facts and circumstances of a particular case. The stringent minimum punishment prescribed by the Act clearly renders such a course imperative. Thus, the statutory desirability in the matter of search and seizure is that there should be two or more independent and respectable witnesses. The search before an independent witness would impart much more authenticity and credit worthiness to the search and seizure proceedings. It would also verily strengthen the prosecution case. The said safeguard is also intended to avoid criticism of arbitrary and

highhanded action against Authorised Officers. In other words, the Legislature in its wisdom considered it necessary to provide such a statutory safeguard to lend credibility to the procedure relating to search and seizure keeping in view the severe punishment prescribed in the Act. That being so, the Authorised Officer must follow the reasonable, fair and just procedure as envisaged by the statute scrupulously and the failure to do so must be viewed with suspicion. The legitimacy of judicial process may come under cloud if the Court is seen to condone acts of violation of statutory safeguards committed by the Authorised Officer during search and seizure operations and may also undermine respect of law that can not be permitted.

19. Although public witnesses were available but no attempt was made by the Authorised Officer to associate them before searching the appellant. I am unable to find any reason as to why the Authorised Officer did not even make any attempt to associate any independent witness or witnesses during the course of search and seizure operation.

20. The case of the prosecution is that one uncured chital skin was recovered from the possession of the accused, which was seized at the spot. However, the case property was neither produced before the Court nor it was placed before any of the witnesses during the evidence for the purpose of identification for the reason best known to the complainant. The complaint states that the alleged skin was around two years old containing two holes. The upper side of the hairs of the said skin were fallen. The said features are not mentioned in the seizure panchnama at Exh. 15. No identification memo was prepared by the

complainant/IO at the spot. There is nothing that the case property was sealed at the spot of incident. There is nothing to show that the complainant witnesses can identify the chital skin or they are expert or possess any degree or qualification to identify the recovered skin easily by mere looking at it, hence, expert opinion was necessary to prove the genuineness. The alleged recovered skin was not sent to CFSL for testing, hence, genuineness of alleged skin to be of chital is doubtful.

21. It is pertinent to note that none of the witnesses depose about the role played by the accused no.2 except for the first time in post-charge evidence by P.W-5. It is not sufficient to hold him guilty of any offence. There is no evidence regarding attempt or abetment at the hands of accused to contravene the provisions, rules or order of the Act, 1972. Hence, I answer point no.1 and 2 in negative.

22. The spot of incident is near Bus Stop, Ashti. It is not a reserved forest. There is no *iota* of evidence that the accused had trespassed into the reserved forest for the purpose of hunting of chital. Thus, I answer point no.3 in negative.

23. Thus, in view of the aforesaid discussions, I am of the considered opinion that the prosecution has failed to prove its case against the accused beyond reasonable doubts. Hence, they are entitled for acquittal. In answer to point no.4, I pass the following order.

ORDER

1. The accused namely Rajanna Payanna Yelkunchiwar, and Vyankatswami Satyam Ramteke are acquitted of the offence punishable under S. 9, 27, 29, 34, 39, 44, 48 r/w sec.

51 and 52 of the Wildlife (Protection) Act, 1972,
S.26(1) of the Indian Forest Act, 1927 r/w S.34 of
the Indian Penal Code, 1860 in view of section
248(1) of the Criminal Procedure Code,1973.

2. They be set at liberty immediately if not required in any other case or crime.
3. The seize muddemal i.e. Chital skin and One cotton bag be sent to District Collector, Gadchiroli for disposal as per rules after appeal period is over.
4. The bail bonds of accused are cancelled.
5. The accused are directed to execute personal bond of Rs. 15,000/- alongwith one or two surety in the like amount as per section 437-A of the Criminal Procedure Code, 1973.

(Pronounced and Dictated in Open Court)

Place:- Chamorshi
Date:- 12.05.2026.

sd/-
(S.A.Bhaisare)
Judicial Magistrate First Class,
Chamorshi