

IN THE COURT OF JUDICIAL MAGISTRATE, HARUR

Present: **Mr. DHINAKARAN.N**, Judicial Magistrate, Harur.

Wednesday, the 29th day of July, 2026

CALENDAR CASE No. 69 of 2021

(WLOR No. 5/2020 of Tirthamalai Forest Range)

State represented by:

The Forest Range Officer,

Tirthamalai Forest Range,

Dharmapuri District.

...Complainant

— VERSUS —

Nagarajan,

S/o. VEDIYAPPAN, aged about 32 years,

Vanniyar community,

Residing at Malluthu Village and Post,

Harur Taluk, Dharmapuri District.

...Accused

This case came up on today 29.07.2026, for final hearing and upon hearing the the arguments of The learned Assistant Public Prosecutor Mr.M.Jagadeesan, BA.,BL(Hons).,LL.M., for the Complainant and learned advocate Tr.C.Sakthivel,BA.,BL., for the Respondent and upon considering the records, which are stood over for the consideration till today, this Court delivers the following,

JUDGMENT

1. This criminal case arises out of a Forest Offence Report in WLOR No. 5/2020, filed by the Forest Range Officer, Theerthamalai Range, against sole

accused Nagarajan, alleging offences under the Tamil Nadu Forest Act, 1882, the Wildlife Protection Act, 1972, and the Arms Act, 1959.

BRIEF PROSECUTION CASE:

2. According to the prosecution, on 03.05.2020 at about 05:00 AM, in the reserved forest area of Veppampatti Reserved Forest, Veppampatti North Beat, Yematheertham locality, a forest patrol team led by the Forest Range Officer (PW1) and comprising Foresters and Forest Guards (including PW2 and PW3) allegedly observed torchlight during an anti-poaching inspection. It is alleged that the forest team hid behind bushes and intercepted accused Nagarajan, who was found carrying an unlicensed country-made gun (*kalla naattu thuppakki*) and wearing a headlamp. The prosecution asserts that the accused gave an extra-judicial confession on the spot admitting his entry to hunt wild animals, following which he was arrested, and the gun and headlamp were seized under Seizure Mahazar (H-Form No. 07).
3. Upon taking cognizance, copies were furnished to the accused under Section 207 Cr.P.C. Charges were framed against the accused under the respective provisions of the Tamil Nadu Forest Act, 1882, the Wildlife Protection Act, 1972, and the Arms Act, 1959. The charges were read over and explained to the accused, who pleaded not guilty and claimed to be tried.
4. To establish its case, the prosecution examined three witnesses, PW1 to PW3, and marked documentary evidence as Ex.P1 to Ex.P3, along with material objects M.O.1 and M.O.2. Upon completion of prosecution evidence, the accused was questioned under Section 313(1)(b) Cr.P.C. regarding the incriminating evidence. He denied all allegations as false, fabricated, and motivated, maintaining his absolute innocence. No defence witnesses were examined, nor were any documents marked on behalf of the accused.

POINTS FOR DETERMINATION

5. The following points are framed for determination:

- i. *Whether the prosecution has proved beyond reasonable doubt that on 03.05.2020 at 05:00 AM, the accused committed criminal trespass into Veppampatti Reserved Forest, thereby committing an offence under Section 21(1)(d) & (h) of the Tamil Nadu Forest Act, 1882?*
- ii. *Whether the prosecution has proved beyond reasonable doubt that the accused entered the reserved forest with an intent or attempt to hunt wild animals, thereby committing an offence under Section 9 read with Section 51 of the Wildlife Protection Act, 1972?*
- iii. *Whether the prosecution has proved beyond reasonable doubt that the accused was found in conscious possession of an unlicensed operational firearm inside the reserved forest, thereby committing an offence under Section 25(1B)(a) of the Arms Act, 1959?*
- iv. *Whether the confessional statement (Ex.P1), seizure mahazar (Ex.P2), Form-H (Ex.P3), and Material Objects (M.O.1 & M.O.2) were legally recovered, proved, and established beyond reasonable doubt?*
- v. *What judgment and order of sentence or acquittal should be passed?*

DISCUSSION ON POINTS & FINDINGS

DISCUSSION ON POINT NO. 1:

6. To sustain a conviction under Section 21(1)(d) & (h) of the Tamil Nadu Forest Act, 1882, the prosecution is under a strict legal obligation to establish the exact locus of the offence as a duly notified "Reserved Forest" under Section 16 of the Tamil Nadu Forest Act. In the present case, while the Forest Offence Report and the testimony of PW2 and PW3 assert that the

incident occurred in Veppampatti Reserved Forest, Veppampatti North Beat, Yematheertham locality, the prosecution has failed to produce or mark the statutory Government Gazette notification defining and declaring the boundary limits of the said area as a Reserved Forest.

7. In the absence of the gazette notification or authoritative survey map, this Court cannot take judicial notice of the exact territorial classification of the place of occurrence. Furthermore, the prosecution has not examined any independent local witnesses or village administrative officers to corroborate the boundary inspection or the exact point of interception. The entire patrol team comprised exclusively interested departmental staff, and no attempt was made to join independent witnesses despite the alleged interception occurring near Malluthu village. This material omission creates a fundamental flaw in establishing the primary ingredient of criminal trespass into a legally declared reserved forest. Therefore, Point No. 1 is answered in the NEGATIVE in favor of the accused.

DISCUSSION ON POINT NO. 2:

8. Regarding the charge under Section 9 read with Section 51 of the Wildlife Protection Act, 1972, the prosecution contends that the accused entered the forest with the intent to hunt wild animals. To substantiate an attempt or act of hunting under Section 2(16) of the Act, there must be cogent, tangible evidence indicating an active pursuit, trapping, driving, or snaring of wildlife, or recovery of hunted animal parts, meat, or traps.
9. A critical examination of the record reveals that no wild animal, carcass, meat, bloodstains, animal traps, snares, or ammunitions (such as gunpowder, lead pellets, or percussion caps) were recovered from the accused. The prosecution rests its entire allegation of hunting solely upon the extra-judicial confessional statement marked as Ex.P1. Confessional statements

made while in the custody of forest officers, though legally admissible under certain circumstances, carry weak evidentiary value unless supported by independent corroborative physical evidence.

10. Where no animal or hunting accessories were found at the spot, an uncorroborated confession recorded by departmental officers in the dark hours of the early morning cannot form the sole basis for conviction. The prosecution has failed to establish any overt act amounting to hunting or an attempt to hunt wild animals. Therefore, Point No. 2 is answered in the NEGATIVE in favor of the accused.

DISCUSSION ON POINT NO. 3:

11. The charge under Section 25(1B)(a) of the Arms Act, 1959, requires the prosecution to prove that the weapon alleged to have been recovered from the accused is a "firearm" within the meaning of the Arms Act, and that it was in an operational condition capable of firing. In the present case, the prosecution produced a country-made gun marked as M.O.1. However, the prosecution failed to send M.O.1 to a Ballistic Expert or a competent Armor for testing to determine whether the mechanism was functional or merely a dummy pipe.
12. No expert opinion or Ballistic Report has been submitted or marked into evidence. Furthermore, the mandatory prerequisite under Section 39 of the Arms Act, 1959, which mandates obtaining prior sanction from the District Magistrate / District Collector before instituting prosecution for offences under Section 25, has neither been obtained nor placed on record. The absence of a valid sanction under Section 39 of the Arms Act goes to the root of the jurisdiction of this Court and renders the prosecution under the Arms Act non-maintainable. Therefore, Point No. 3 is answered in the NEGATIVE in favor of the accused.

DISCUSSION ON POINT NO. 4:

13. A meticulous examination of the procedural chain regarding search, seizure, and custody of properties reveals glaring fatal discrepancies. According to the prosecution narrative and Column 8 of Form-A, the seizure took place on 03.05.2020. The properties M.O.1 and M.O.2 were allegedly produced before the Magistrate on 03.05.2020, but were returned to range custody due to COVID-19 lockdown restrictions, and were formally deposited in Court only on 10.09.2020 under CP No. 59/2020 a delay of over four months.
14. The prosecution failed to produce any property register entry, safe-custody memo, or seal impression log to establish where and in whose custody M.O.1 and M.O.2 were kept between 03.05.2020 and 10.09.2020. This unaccounted delay of more than four months in producing seized weapons before the Court, without proof of tamper-proof sealing, introduces a severe risk of planting or tampering.
15. Additionally, the Seizure Mahazar (Ex.P2) and Form-H (Ex.P3) contain no signatures of independent witnesses from the locality, despite the presence of nearby human habitations. The search was conducted at 05:00 AM without complying with the mandatory statutory safeguards of search and seizure under Section 100 of the Code of Criminal Procedure, 1973. These procedural lapses severely rupture the chain of custody and cast overwhelming suspicion on the genuineness of Ex.P1, Ex.P2, Ex.P3, M.O.1, and M.O.2. Therefore, Point No. 4 is answered in the NEGATIVE in favor of the accused.

DISCUSSION ON POINT NO. 5:

16. In criminal jurisprudence, the burden of proving the guilt of the accused beyond all reasonable doubt rests entirely upon the prosecution. The

standard of proof required is not one of mere suspicion or probability, but of certainty beyond reasonable doubt. In the present case, due to the non-production of the statutory Reserved Forest Gazette notification, the complete absence of independent mahazar witnesses, the lack of corroborative physical evidence of hunting, the absence of a Ballistic Expert report, the failure to obtain mandatory District Magistrate sanction under Section 39 of the Arms Act, and the unexplained four-month delay in depositing the seized material objects into court custody, the prosecution case crumbles entirely. The accused is entitled to the benefit of reasonable doubt. Consequently, Point No. 5 is answered holding that the accused is entitled to a full and honorable acquittal.

FINAL ORDER

17. In the result, the prosecution has failed to prove the charges against the accused beyond reasonable doubt.

- i. The accused Nagarajan (A1) is hereby ACQUITTED under Section 248(1) of the Code of Criminal Procedure, 1973, of all charges under Section 21(1)(d) & (h) of the Tamil Nadu Forest Act, 1882, Sections 9, 39, 50 & 51(1) of the Wildlife Protection Act, 1972, and Section 25(1B) (a) of the Arms Act, 1959.
- ii. The bail bonds, if any, executed by the accused shall stand cancelled, and his sureties are discharged.

ORDER ON PROPERTY

18. In accordance with Rule 263(3) read with Rule 261 of the *Criminal Rules of Practice, 2019*, illegal/unlicensed firearms, ammunition, and explosives marked as case properties must not be sold or destroyed by the court, but must be handed over to the Commissioner of Police or the District

Superintendent of Police under due acknowledgment for custody and safe disposal.

Regarding the disposal of properties deposited in this Court under CP No. 59/2020 and documented in Form-H (Ex.P3):

- i. M.O.1 (Country-made Gun - 1 No.): In strict compliance with Rule 263(3) of the Criminal Rules of Practice, 2019, since M.O.1 is an unlicensed/illicit firearm, it shall be confiscated to the State and handed over to the Superintendent of Police, Dharmapuri District, under due written acknowledgment, for safe custody, destruction, or disposal in accordance with the law after the statutory period of appeal has expired.
- ii. M.O.2 (Headlamp - 1 No.): Being an item of negligible commercial value, it shall be destroyed as worthless after the expiry of the appeal period.

Directly typed by me in my laptop, corrected, and pronounced by me in open Court on this 29th day of July, 2026.

**Judicial Magistrate,
Harur.**

APPENDIX

I.Witnesses Examined:

On behalf of the Prosecution:

- PW1: S. Dandapani (Forest Range Officer, Tirthamalai Forest Range)
- PW2: M. Subramani (Forester, Veppampatti Section)

- PW3: J. Anand (Forest Guard, Veppampatti North Beat)

On behalf of the Defence:

- DWs: Nil (None examined)

II. Documents Marked:

On behalf of the Prosecution:

- Ex.P1: Confessional Statement of Accused
- Ex.P2: Seizure Mahazar
- Ex.P3: Form-H Seizure Report

On behalf of the Defence:

- Ex.D1: Nil (None marked)

III. Material Objects Marked:

On behalf of the Prosecution:

- M.O.1: Unlicensed Country-made Gun (1 No., total length: 168 cm, barrel length: 123 cm, barrel circumference: 6 cm, butt length: 84 cm, butt circumference: 27 cm, with 3 iron rings).
- M.O.2: Headlamp (1 No., Black and Red color).

**Judicial Magistrate,
Harur.**

Notes:

The authorities shall be informed of the case outcome.

No witness was detained beyond three days.

Depositions were taken under the Oaths Act, 1969, and verified.