



**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
(CIRCUIT BENCH AT PORT BLAIR)**

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. 8 of 2025

Shri Ganasekaran

Versus

The State

For the Petitioner : Mr. Rakesh Pal Gobind, Adv.

For the State : Mr. Sumit Kumar Karmakar, Adv

Heard on : 18.02.2026

Judgment on : 23.02.2026

Ajay Kumar Gupta, J:

1. The instant Criminal Revisional application under article 227 of the Constitution of India read with Section 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (in short 'BNSS') has been preferred by the petitioner, challenging the correctness, legality and propriety of the



judgment and order dated December 16, 2024 passed by the Learned Sessions Judge, at Port Blair, South Andaman District in Criminal appeal No. 5 of 2022 whereby and whereunder the Learned Judge affirmed the conviction and sentenced dated 21st April, 2022 passed by the Learned Chief Judicial Magistrate, South Andaman, Port Blair in C.R Case No. 38 of 2018 under Sections 42 (2) of the Indian Forest Act, 1927 read with Section 11 (2) of Andaman and Nicobar Islands Forest Produce Transit Rules, 1966.

2. By the said judgment, the learned Trial Court found the petitioner guilty of committing the offence punishable under Sections 42 (2) of the Indian Forest Act, 1927 read with Section 11 (2) of Andaman and Nicobar Islands Forest Produce Transit Rules, 1966, and sentenced him to a fine of Rs.1000/-, in default, to suffer Simple imprisonment for one month.

FACTS OF THE CASE: -

3. The brief facts, leading to the filing of this instant Criminal Revisional application, are as follows: -
 - a. On 17.11.2017, Shri Erularajan, Range officer, Manglutan, seized 30 pieces measuring 1.146 Cbm Hand-Sawn Paduak timber along with the vehicle Bolero Camper (Cargo jeep) from the spot in the presence of the other official team, and later those sawn timber



and vehicle were brought to the Range office, Manglutan, along with the accused.

- b.** The said Sawn Paduak Timber in the vehicle Bolero Camper (Cargo jeep) were seized from the possession of the petitioner on the basis of credible information by constituting two teams.
- c.** Two teams were constituted to intercept the vehicle as per the information. Team 1 consisted of 3 officials and 2 mazdoors, headed by T.P. Mukesh, Dy. Ranger and Team 2 consisted of 4 officials and 2 Mazdoors, headed by Shri S. Haggim, Dy. Ranger, Sri K.R. Ganesh.
- d.** Firstly, they were unable to intercept the vehicle but subsequently it was found and seized as aforesaid in the presence of witnesses after extensive search.
- e.** Petitioner was arrested after observing code formalities. The Range Officer immediately informed the learned Court of the Chief Judicial Magistrate about the seizure on November 18, 2017. The Petitioner was served with a notice to produce the document regarding the seized article within 30 days. However, the petitioner was unable to produce valid documents of either the seized Timber or the vehicle. The illegal transportation of sawn timber is an offence under the Indian Forest Act, and also a violation of the Andaman and Nicobar Islands Forests Produce Transit



Rules, 1966. Accordingly, a case was registered against the accused on April 9, 2018, under sections 4(2), 6, 7(1)(3), 8, 11(2) of the Andaman and Nicobar Islands Forests Produce Transit Rules, 1966.

- f.** The prosecution relied upon 6 witnesses to establish its case, and produced several documents marked as exhibits 1 to 4 and also Material Exhibits.
- g.** The Ld. Magistrate, after having considered the material on record, specifically oral and documentary evidence, passed a judgment and order dated 21st April, 2022, convicting the petitioner and sentencing him as aforesaid.
- h.** Being aggrieved by the said order of conviction, the petitioner preferred an appeal, being Criminal Appeal No. 5 of 2022, before the Learned Sessions Judge, at Port Blair, South Andaman District, wherein the Learned Judge passed a judgment and order dated December 16, 2024, affirming the judgment and order of conviction passed by the Learned Magistrate. Hence, this revisional application.

SUBMISSION ON BEHALF OF THE PETITIONER: -

- 4.** Learned counsel appearing on behalf of the petitioner vehemently argued and submitted that the petitioner is innocent, and he has been falsely implicated in this case. The allegations are wholly false



and frivolous. The case has been initiated against the present petitioner without sufficient materials and/or seizure. The seizure is doubtful with regard to place and possession. The seizure witness, i.e., P.W3, was unable to prove the place of seizure. During cross-examination, he stated that the seizure list did not mention that the paduak and the vehicle were seized at Chouldari. He also stated that he did not know whether any complaint had been lodged at the time of seizure.

5. The Trial Court convicted and sentenced the petitioner as aforesaid, without proper appreciating the evidence of P.W.3. The Learned Sessions Judge further affirmed the conviction and sentence, by dismissing the petitioner's appeal without considering and appreciating the contention of the petitioner that he is innocent. The seizure list itself creates a doubt as it does not reflect the actual place of seizure, therefore, the benefit should be extended in favour of the accused person.
6. It was further argued and submitted that the Learned Courts below also overlooked that the seizure list did not disclose the actual place of seizure and how the case reference number, i.e. Range offence 51 dated 18.11.2017, was incorporated in the seizure list, when the allegation of seizure was made one day prior to 18.11.2017 these discrepancies in the seizure list touch the root of the case as such



court cannot rely upon it or based on such seizure for conviction. Therefore, conviction cannot be sustained in law, and the same is liable to be set aside only on the basis of such discrepancies and doubtful seizure.

SUBMISSION ON BEHALF OF THE STATE: -

7. On the other hand, learned counsel appearing on behalf of the State has contested the case and vehemently opposed and disputed the contention of the learned counsel appearing on behalf of the petitioner and submitted that both the Trial Court and the Appellate Court has rightly considered the seizure list as well as evidence of other official witnesses, who were present at the spot, where from the Sawn Timber within the vehicle was seized. The petitioner was driving the vehicle at the time when it was chased and apprehended. The seizure was made within the jurisdiction of Manglutan, within the range of South Andaman Forest Division, in the presence of witnesses, falls within the forest area. Therefore, the Trial Court has rightly convicted and sentenced the present petitioner, which requires no interference by this court under the revisional jurisdiction. Accordingly, application requires dismissal.

DISCUSSIONS, ANALYSIS AND CONCLUSION OF THIS COURT: -

8. This Court has carefully heard the arguments and submissions of the learned counsels for the respective parties, and for the purpose of



disposal of this case, it would be fair to indicate the relevant sections

herein: -

Section 42(2) of the Indian Forest Act, 1927

“(2) Such rules may provide those penalties which are double of those mentioned in sub-section (1) may be inflicted in cases where the offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority, or where the offender has been previously convicted of a like offence.”

Section 11(2) of the Andaman and Nicobar Islands Forest Produce Transit Rules 1966

“(2) Penalties which are double of those mentioned in sub-rule (i) may be inflicted in cases where the offence is committed after sunset and before sunrise or after preparation for resistance to lawful authority, or where the offender has been previously convicted of a like offence.”

9. Upon perusal of the judgment and order passed by both the Courts below, it is revealed that both the courts below relied upon the seizure list and the oral evidence of P.Ws. 1 to 6, and noted that P.W. 3 was unable to conclusively establish the place of seizure, as the seizure list did not record that the padauk timber and the vehicle were seized at Chouldari, nor could he state whether any complaint was lodged at the relevant time. It was not disputed that the sawn timber was not seized from the vehicle. The vehicle was driving at the time of chasing or intercepting. Petitioner was also arrested from the spot, where both timber and vehicle were seized. The petitioner was caught red handed. The petitioner failed to produce any valid



documents or permit relating to the seized timber or its transportation in the seized vehicle, despite notice, which both courts considered materials while upholding the findings.

- 10.** This Court is also unable to satisfy with the submission of learned counsel for the petitioner that the seizure list is unreliable only on the ground that the specific place of seizure was not mentioned therein and that P.W. 3 failed to conclusively prove the same. Admittedly, during cross-examination, he stated that the seizure list did not record that the paduak timber and the vehicle were seized at Chouldari, and that he was unaware as to whether any complaint was lodged at the time of seizure. Such omissions, however, are insufficient to discredit the seizure of a substantial quantity of sawn timber from the vehicle driven by the petitioner and when P.W.3 did not deny his signature appearing in the seizure list.
- 11.** The putting or incorporating the Range offence Number in the seizure list subsequently on 18.11.2017 in the office or elsewhere would not fatal the case of prosecution in any manner. It is admitted by the prosecution that the seizure was made on 17.11.2017 from the possession of the Petitioner.
- 12.** It is settled law that even if seizure witnesses turned hostile or do not support the prosecution, the case can lead to a conviction, if the testimony of the seizing officer/investigation officer and other



witnesses, who were present at the time of seizure, is cogent, trustworthy and unshaken during cross-examination.

- 13.** It is also a settled principle of law that a seizure witness turning hostile can damage a criminal case. However, it does not automatically wash out or invalidate the entire case, especially if the seizing officer, as well as other evidence, support the prosecution case and the seizure memo is otherwise deemed reliable, credible and consistent.
- 14.** The prosecution witnesses, i.e. PWs 1, 2, 4, 5, and 6, have consistently narrated the entire gamut of seizure of Sawn Timber from the Petitioner. 30 pieces of Sawn timber were seized from the vehicle under the control of the petitioner. Petitioner failed to rebut such facts and shaken other eye witnesses, who were very much present at the time of seizure. The officials have seized the vehicle within the jurisdiction of Manglutan while it was transporting illegal forest Timber. The testimony of other witnesses, including the seizing officer are cogent, trustworthy and unshaken during cross-examination.
- 15.** Therefore, this court does not find any infirmity, perversity, illegality and/or error in law while convicting and sentencing the accused under Section 42 (2) of the Indian Forest Act, 1927 read with Section 11 (2) of Andaman and Nicobar Islands Forest Produce Transit



Rules, 1966, and the sentence is also reasonable. Consequently, the concurrent finding of the Trial Court and appellate court calls for no interference; as such, the revisional application is liable to be dismissed.

16. Accordingly, **CRR 8 of 2025** is, thus, **Dismissed**. Connected applications, if any, are also, thus, disposed of.
17. The concurrent Judgment and order dated 16th December, 2024, passed by the Learned Sessions Judge, at Port Blair, South Andaman District in Criminal appeal No. 5 of 2022 and the judgment and order dated 21st April, 2022 passed by the Learned Chief Judicial Magistrate, South Andaman, Port Blair in C.R Case No. 38 of 2018 are hereby affirmed. Petitioner shall pay fine at once as stipulated by the trial Court, in default the Trial court shall take appropriate steps against the petitioner to serve out the sentence imposed in case of default to pay fine.
18. Trial Court Record, if any, is to be returned to the Learned Court below.
19. Let a copy of this Judgment and Order be sent to the Learned Courts below on urgent basis for information and taking necessary action.
20. Interim order, if any, stands vacated.
21. All parties will act on the server copies of this Judgment and Order uploaded on the official website of this Hon'ble High Court.



22. Urgent photostat certified copy of this Judgment and Order, if applied for, is to be given as expeditiously to the parties on compliance of all legal formalities.

(Ajay Kumar Gupta, J)