
(2014) 03 SHI CK 0043
In the High Court Of Himachal Pradesh
Case No : Criminal Appeal No. 81 of 2006

State of H.P.

APPELLANT

Vs

Sant Ram and Another

RESPONDENT

Date of Decision : 14-03-2014

Acts Referred:

Forest Act, 1927 — Section 41 42

Citation : (2014) 1 ShimLC 484

Hon'ble Judges : Mansoor Ahmad Mir, Acting C.J.

Bench : Single Bench

Advocate : D.C. Pathik, A.A.G., Mr. J.K. Verma, Dy. A.G. and Mr. Ramesh Thakur, A.A.G, for the Appellant; Prashant Pandey, for the Respondent

Final Decision : Dismissed

Judgement

Mansoor Ahmad Mir, Actg. C.J.

1. This appeal has been preferred by the State against the judgment and order dated 23rd December, 2005, passed by Judicial Magistrate 1st Class, Court No. 1, Paonta Sahib, District Siamaur, H.P. in Criminal Case No. 33/3 of 04/2000 under Sections 41 and 42 of the Indian Forest Act (for short "I.F. Act"). Allegations against the accused are that they were transporting the timber in breach of the provisions of Sections 41 and 42 of the I.F. Act, for which they were put to trial by the trial Court. Accused pleaded not guilty and claimed to be tried. Prosecution examined 9 witnesses in support of its case and the accused have examined two witnesses, namely, Tulsi Ram and Panch Ram in their defence.

2. After scanning the entire evidence led by the prosecution as well as by the accused persons, the trial Court dismissed the case of the prosecution and acquitted the accused of the charge framed against them. It is apt to reproduce relevant portion of the impugned judgment hereunder:--

17. ...The prosecution witnesses even the I.O. of the case has admitted that this timber recovered from the accused persons was being transported under the

garb of Ex. DA & DB. It was further admitted by the I.O. of the case that these permits were found to be correct by him. It is also admitted case of the prosecution itself that this timber pertains to two permits belonging to one Tulsi Ram and another Panch Ram. PW-7 Sh. Attar Singh has been examined for this purpose by the prosecution who has specifically stated that he has put the hammer marks on these logs before they were brought to saw mill. Another allegation appearing against the accused persons are that they were transporting the wood without any permit from one Range to another Range. There is not even a reference of the name of the Range made by the witness.

3. I have examined the record of the trial Court. None of the witnesses have deposed that the accused were transporting timber from one Range to another Range. The owners of the timber, namely, Tulsi Ram and Panch Ram have appeared in the witness box as DW-1 & DW-2, respectively, and stated that they had got the permits i.e. Ext. DA and Ext. DB and felled the trees and the accused persons were transporting the same to saw mill. The trial Court has passed a speaking and reasoned order. The reasons assigned by the trial Court are supported by the judgment of this Court which is reported in State of Himachal Pradesh Vs. Surinder Lal Sood and Others, It is apt to reproduce Paragraph-11 of the said judgment as under:- After analyzing the submissions made by the learned counsel for the parties, I am of the opinion that the explanation of the accused appears to be quite satisfactory, convincing and honest. This conclusion is further strengthened in view of the statements of number of prosecution witnesses, as discussed above, that between Shogi and Shimla, there is no requirement of pass for the transport of the timber. It is, therefore, absolutely unnecessary, as contended by Shri M.S. Guleria, learned Assistant Advocate General, to examine the variations in the nature, number and size of timber, mentioned in various documents. Rule 11 is not attracted in the present case.

In view of the above, the appeal merits dismissal and is dismissed as such.