2025 INSC 705

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. OF 2025
[@ SPECIAL LEAVE PETITION (CRIMINAL) NOS.4650-4651 OF 2024]

RAJESH ETC. …APPELLANTS

A1: RAJESH in Criminal Appeal No. of 2025 @ SLP (Crl.) No.4651 of 2024)

A1: MAKBOOL AHMED in Criminal Appeal No. of 2025 @ SLP (Crl.) No. 4650 of 2024)

VERSUS

UNION OF INDIA ETC. …RESPONDENTS

R1: UNION OF INDIA in Criminal Appeal No. of 2025 @ SLP (Crl.) No.4651 of 2024)

R1: STATE OF MAHARASHTRA in Criminal Appeal No. of 2025 @ SLP (Crl.) No. 4650 of 2024)

J U D G M E N T

AHSANUDDIN AMANULLAH, J.

Leave granted.

2. The present appeals assail the Final Judgment and Order dated 06.06.2023 in Criminal Revision Application Nos.82 and 83 of 2013

(hereinafter referred to as the 'Impugned Judgment') passed by a learned Single Bench of the High Court of Judicature at Bombay, Nagpur Bench, Nagpur (hereinafter referred to as the 'High Court'), whereby the revision petitions filed by the appellants were dismissed and Judgment dated 23.05.2013 passed by the learned Additional Sessions Judge-3, Nagpur (hereinafter referred to as the 'Sessions Court') in Criminal Appeal Nos.88 and 97 of 2007 was upheld.

FACTS:

3. Secret information was received by the Central Bureau of Investigation, Special Investigation Unit No.II, New Delhi (hereinafter referred to as the 'CBI') that appellant-Makbool Ahmed [appellant in the appeal arising from SLP (Criminal) No.4651/2024, hereinafter referred to as 'Accused No.1'] and Rajesh [appellant in the appeal arising from SLP (Criminal) No.4650/2024, hereinafter referred to as 'Accused No.2'] were indulging in illegal trade of tiger skin and wild animal products. The information was to the effect that the appellants were likely to deliver huge quantity of the illegal skin and products to some unknown persons in Nagpur, Maharashtra in the 3rd week of March, 2001. Based on this information, a CBI team, headed by PW4/Mr. A. K. Bassi, Inspector, reached Nagpur and maintained regular contacts with

the source. On 21.03.2001, the source informed the CBI team that both accused were likely to deliver huge quantity of tiger skin and wild animal products to some unknown person(s) at about 16:40 hours at M.H.S.K. Mohammad Ali Petrol Pump, Kamptee Road, Nagpur in a *Maruti*-make car. Accordingly, two independent witnesses were requisitioned by way of a written request by PW4 to the Regional Labour Commissioner (Central), CGO Complex, Nagpur and Executive, Patent Information System, CGO Complex, Nagpur, seeking two officers. The Regional Labour Commissioner made available the services of Mr. K.G. Sadawarte and Mr. Umesh Bhosale/PW2, respectively.

4. On even date, PW4, Inspector Jagdish Prasad/PW6 and other staff gathered in the local CBI office, where PW4 briefed Mr. Sadawarte and PW2 about the secret information, and all left for the spot at about 14:45 hours. They reached near the M.H.S.K. Mohammad Ali Petrol Pump at about 15:15 hours. Around 16:30 hours, the source contacted PW4 and pointed to a silver-coloured *Maruti* Esteem car bearing Registration No.MH-18/C-833 parked in the premises of M.H.K.S. Petrol Pump and informed that the accused were sitting in the car. Immediately, PW4, the CBI staff and the independent witnesses

intercepted the said *Maruti* Esteem car and disclosed their identity to the suspects. In the meantime, a congregation of people had gathered on the spot. PW4 requested one amongst the general public to act as a *panch* to the proceeding. The Manager of the Petrol Pump named Mr. Rambabu Mangruji Kuthe/PW1 offered to act as a witness. On inquiry, the respective accused disclosed their identities. During the search, it was found that Accused No.1 was sitting on the driver seat of the car and one tiger skin was kept on the front seat of the car, while Accused No.2 was sitting in the rear seat of the car in possession of antler horns, 10 claws and 3 teeth appearing to be of a tiger. When they opened the dicky of the car, they also found gunny bags containing 23 kg of tiger bones, 5 tiger skulls weighing about 2.4 kg and antler horns weighing 1.9 kg. The tiger skin and the wildlife articles were numbered and put in a white-clothed wrapper by obtaining the signatures of the accused, witnesses and CBI officials. The gunny bags were sealed, and the CBI team prepared the Recovery Memo. The said seal was then handed over to Umesh Bhosale (PW2). Rough site map was prepared on the spot, and the proceedings continued till 20:40 hours, whereafter the CBI seized the *Maruti* Esteem car and arrested the accused on the spot.

5. The next day *viz*. on 22.03.2001, First Information Report *vide* Crime No.RCS IB2001E0002 was registered under Sections 49-B read with Section 51 of The Wild Life (Protection) Act, 1972 (hereinafter referred to as the 'Act') against the accused. Investigation was handed over to Mr. Shekhar Ravindranath Bajaj/PW13 (Investigating Officer). In the course of investigation, the seized case property was sent to the Director, Wildlife Institute of India, Dehradun for obtaining expert opinion.

6. The expert, on analysis, opined that most of the case property is of scheduled wild animals such as tiger, panther, leopard, hyena, and chital. After completion of investigation, PW13 submitted the investigation paper(s) before the Deputy Superintendent of Police/PW12. Upon examining the said paper(s) and after going through the record, PW12, being an officer authorised under the Act, filed a complaint being Criminal Case No.236/2001 under Section 55 of the Act before the learned Chief Judicial Magistrate, Nagpur (hereinafter referred to as the 'CJM') on 21.12.2001, stating that there was ample evidence to prove that both accused, in connivance with each other, brought the seized articles and were caught red-handed in illegal possession of the seized articles, in presence of independent

witnesses at M.H.S.K. Mohammad Ali Petrol Pump, Kamptee Road, Nagpur and hence, committed offences punishable under Section 120-B of the Indian Penal Code, 1860 (hereinafter referred to as the 'IPC') read with Sections 49-B and 51 of the Act.

7. On 09.04.2007, the CJM, on consideration of the evidence, found the same sufficient to prove and sustain the charges against the accused. Accordingly, the CJM convicted and sentenced both accused to undergo rigorous imprisonment for six years under Sections 49, 49-B and 51 of the Act and pay fine of Rs.5,000/- (Rupees Five Thousand) each and in default of payment of the fine, to suffer further rigorous imprisonment for one year.

8. The Sessions Court on 23.05.2013 dismissed Criminal Appeal Nos.88/2007 and 97/2007 filed by the accused against Judgment dated 09.04.2007 passed by the CJM. The conviction and sentence of the appellants has been confirmed by the High Court in revisionary jurisdiction by way of the Impugned Judgment.

APPELLANTS' SUBMISSIONS:

9. Learned counsel for the appellants submitted that as per the prosecution witnesses, though four persons were apprehended by the

CBI officers, two persons were allowed to go free. It was urged that, therefore, the case set up by the CBI, that only two persons were found in the car and were apprehended, is doubtful.

10. Learned counsel for the appellants submitted that there was discrepancy in the way trap proceeding, followed by the alleged seizure, was conducted. It was submitted that PW2 had stated that a silver-coloured car came in his presence to the Petrol Pump, whereas the case of the prosecution is that the car was already at the Petrol Pump prior to the arrival of the raiding team. Learned counsel contended that this will be a vital aspect casting doubt on the veracity and reliability of the trap, for the reason that if the vehicle was already present in the parking space at the Petrol Pump, then the time taken for the CBI team to assemble and then go to the Petrol Pump, which as per the trap team, itself was within half an hour's reach, there is no explanation as to why the persons who were slated to come to collect the incriminating products never turned up, nor did the team wait for the supposed buyer(s) to turn up, as the specific information was that illegal products were going to change hands.

11. It was submitted that as per the version of the trap team, they left at 14:45 hours for the Petrol Pump and reached there at 15:15 hours. At 16:30 hours, only upon the information provided by the source, the trap team confronted the appellants and made the seizure. Learned counsel contended that even here, there is divergence and contradiction in the prosecution case itself, inasmuch as, according to one version, it is stated that the appellants were caught from the car, whereas the other version is that they had run away and then four persons were caught, amongst which two were released after questioning but the appellants were caught. Thus, it was contended that if the appellants had run away, the whole nature of conducting of the trial would change as the recovery would not be from their conscious possession, whereas if they were caught in the car, then the recovery could be said to have been from conscious possession. Learned counsel submitted that the three Courts below have absolutely not considered this vital aspect which was sufficient to raise serious doubts. It was urged that this deficiency would merit grant of benefit of doubt to the appellants.

12. Furthermore, learned counsel submitted that whenever products made/comprising wild animals are recovered, the first and foremost

course of action for the investigation agency is to connect the recovery to the supplier of the said material(s). In the present case, only a vague statement is made that the appellants disclosed that supplier was one Madhu, but the said person could not be traced out by the prosecution. Thus, besides the supplier, the place from where it was procured has also not been gone into and most importantly, the person(s) to whom the materials were intended to be sold is not even mentioned in the entire investigation.

13. It was the submission that the time-gap of almost two hours when the trap team got information of the silver-coloured car being parked in the parking lot of the Petrol Pump and the actual raid conducted by them, there was no explanation as to why the appellants should have stayed and waited when nobody turned up to collect the so-called animal goods. Thus, learned counsel contended, in the normal course of events when such huge quantity of illegal animal products were in the car, the appellants, if involved, would not have waited for such long period as such transactions would happen quickly, so as to prevent any unexpected interception.

14. Learned counsel, in the alternative, argued that if the Court does not find favour with the submissions canvassed on the point of benefit of doubt, then, at the very least, reduction in quantum of sentences be considered, as the appellants were young at the time of the alleged offence(s).

15. Learned counsel submitted that this Court may consider imposing lesser sentence as prescribed under the Act i.e., of 3 years, in case we were not inclined to acquit the accused by overturning the Impugned Judgment.

RESPONDENTS' SUBMISSIONS:

16. No counter-affidavit was filed. Learned counsel for the CBI submitted that the Courts below have considered the issues arising herein from all possible angles, rightly recorded conviction and handed down sentence. It was also submitted that in the facts of the case, where there has been huge recovery of illegal animal products and in view of the need to ensure proper preservation of wildlife, the maximum sentence of 7 years ought to have been awarded, but the Courts below

took a lenient view, by awarding only six years' Rigorous Imprisonment to the appellants. It was advanced that the appeals be dismissed.

ANALYSIS, REASONING AND CONCLUSION:

17. We have considered the matters in its entirety. We have examined the background facts and circumstances of the case(s) and the submissions made by learned counsel for the parties. A few prefatory words are in order. The Statement of Objects and Reasons of the Act makes for telling reading, even today:

> '*The rapid decline of India's wild animals and birds, one of the richest and most varied in the world, has been a cause of grave concern. Some wild animals and birds have already become extinct in the country and others are in the danger of being so. Areas which were once teeming with wild life have become devoid of it and even in Sanctuaries and National Parks the protection afforded to wild life needs to be improved. The Wild Birds and Animals Protection Act, 1912 (8 of 1912), has become completely outmoded. The existing State laws are not only out-dated but provide punishments which are not commensurate with the offence and the financial benefit which accrue from poaching and trade in wild life produce. Further such laws mainly relate to control of hunting and do not emphasis the other factors which are also prime reasons for the decline of India's wild life, namely, taxidermy and trade in wild life and products derived therefrom.*'

18. The present *lis* concerns offences under the Act. It need not be over-emphasised that in the present times, the area left open to the wildlife ecosystem is diminishing everyday due to massive urbanisation, colonization, industrialisation and land-use for various commercial purposes, the threat of wild life, *flora* and *fauna*, vanishing and even becoming extinct is real and not imaginary. Thus, no doubt, a very strict approach is required to be taken by the concerned Governments and authorities. If guilt of the accused is established beyond reasonable doubt for any offence under the Act, the punishment meted out should be appropriate and commensurate to the offence, as laid down in the Act .

19. However, having stated the above, the standard of 'proof beyond reasonable doubt' still holds the field. Any infringement on the life and liberty of an accused should only be countenanced when the prosecution meets the standard *supra*.

20. In the present scenario, much can be said about the vague investigation which shows that it has been open-ended without delving into the relevant aspects which were necessarily required to be gone

into. Going by the prosecution version, huge quantity of banned/illegal animal products having been recovered, it would obviously mean that there would have been a supplier (either the 'Madhu' adverted to earlier, or someone else) of the seized products, and prospective buyer(s), since the prosecution itself stated that the products were to be handed over to some other person. What we can gather is that the CBI team did not have the patience to wait for the transaction to reach its logical conclusion, as the interception of only the accused took place. With regard to the supplier, it is apparent that no investigation in this behalf was pursued by the CBI. It has not even been indicated as to how the appellants were involved with and had links with the trade. Pausing for a moment, we would like to clarify that this does not absolve the appellants of their liability of discharging the presumption operating against them by virtue of Section 57 of the Act. Even the Forensic Report prepared by the Wildlife Institute of India only mentions that the material belonged to tiger, panther, leopard, hyena, chital but the age of the animal products was not determined.

21. This, in our view, indicates a casual approach in conducting the investigation. It is gainsaid that in matters of the like herein, the first and

foremost duty is on the investigators, including the responsibility of ensuring full and proper forensic tests as also in-depth investigation which encompassing all possibilities, such that the chain of events from the beginning till the end is complete. Be that as it may, the above lacuna do not fully aid the appellants. The reason we say so follows below.

22. From the testimonies of the witnesses, it is clear that the appellants were arrested on the spot. Further, recoveries were made from the appellants in the presence of PW1 and PW2 who were independent witnesses and unconnected with the trap team. PW1 and PW2 were not part of the CBI team. As noted hereinabove, PW2 had been nominated by the Regional Labour Commissioner, Nagpur at the request of the CBI. Mr. Rambhau Mangruji Kuthe/PW1 was the Manager of the Petrol Pump. As such, they can be termed uninterested neutral witnesses. On the anvil of the materials which have surfaced during trial, especially the depositions of the witnesses, we are of the opinion that the prosecution has succeeded in connecting the recovery of the materials to the appellants. PW1 and PW2 were subjected to cross-examination, but the substratum of their testimonies has not been

dislodged. Thus, the convictions do not require to be interfered with and stand affirmed.

23. Coming to the quantum of sentence, it is evincible that the appellants at the time of the offence were young in age. Moreover, it is also not the case of the prosecution that the appellants had themselves poached/killed the animals whose bones/claws/antlers/products were recovered. Viewed thus, we are inclined to reduce the period of the sentences awarded by the Courts below.

24. Accordingly, while upholding and affirming the convictions, the Impugned Judgment is modified by substituting the sentences awarded to the appellants under Section 51 of the Act with three years' simple imprisonment and fine of Rs.25,000/- (Rupees Twenty-Five Thousand) each, to be paid within eight weeks from the date of this Judgment. Failure to pay the fine shall result in further incarceration for three months.

25. The appellants are directed to deposit the fine amount with Secretary, Animal Welfare Board of India, Ministry of Fisheries, Animal Husbandry & Dairying (Department of Animal Husbandry & Dairying),

42 KM Stone, Delhi-Agra Highway, National Highway-2, Village Seekri, Ballabhgarh, Faridabad, Haryana - 121004. A copy of this Judgment be sent to the above mentioned officer by the Registry.

26. These appeals stand partly allowed *pro tanto*.

27. I.A. No.152418/2023, seeking exemption from filing Certified Copy of the Impugned Judgment, is allowed.

…….....J.
[SUDHANSHU DHULIA]

…….....J.
[AHSANUDDIN AMANULLAH]

NEW DELHI
MAY 15, 2025