REPORTABLE

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

I. Crl. Rev. P. No. 17 of 2016

1. The State of Manipur through the Additional Chief Secretary (Forest & Environment), Government of Manipur.
2. The Divisional Forest Officer, Thoubal Forest Division.

... Petitioners

-Versus-

Oinam Ranjit Singh aged about 32 years, s/o O. Ibobi Singh of Oinam Bazar, P.O. and P.S. Nambol, Bishnupur District, Manipur, the registered owner of the Tata Truck (Vehicle) bearing registration no. MN-05C/2523.

... Respondent

With

II. Crl. Rev. P. No. 18 of 2016

1. The State of Manipur through the Additional Chief Secretary (Forest & Environment), Government of Manipur.
2. The Divisional Forest Officer, Thoubal Forest Division.

... Petitioners

-Versus-

Suankhogin Ngaite, aged about 70 years, s/o late Pusuam of Lamsang village P.O. & P.S Churachandpur District, Manipur, the registered owner of the Tata Truck (Vehicle) bearing registration No. MN-02A/6344.

... Respondent

With

III. Crl. Rev. P. No. 19 of 2016

1. The State of Manipur through the Additional Chief Secretary (Forest & Environment), Government of Manipur.

2. The Divisional Forest Officer, Thoubal Forest Division.

... Petitioners

-Versus-

Oinam Gunamani Singh, aged about 36 years, s/o O. Angouba Singh of Oinam Mamang Leikai, P.O & P.S Nambol, Bishnupur District, Manipur, the registered owner of the Tata Truck (Vehicle) bearing registration No. MN-03T/1051.

... Respondent

With

IV. Crl. Rev. P. No. 20 of 2016

1. The State of Manipur through the Additional Chief Secretary (Forest & Environment), Government of Manipur.
2. The Divisional Forest Officer, Thoubal Forest Division.

... Petitioners

-Versus-

Thiyam Amumacha Meitei, aged about 72 years, s/o Th. Udhop Meitei of Khabam Lamkhai, P.O Mantripukhri & P.S Heingang, Imphal East District, Manipur, the registered owner of the Tata Truck (Vehicle) bearing registration No. MN-06T/0741.

... Respondent

With

V. MC(Crl. Rev. P.) No. 8 of 2016

B E F O R E

HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

For the petitioners	:	Mr. Y. Ashang, PP & Mrs. RK. Emily, Dy. GA.
For the respondent	:	Mr. M. Gunedhor, Adv. & Ms. L. Ashapriya, Adv.
Date of reserved	:	12.03.2026
Date of Judgement	:	**23.07.2026**

JUDGEMENT & ORDER
(CAV)

[1] Heard Mr. Y. Ashang, learned PP assisted by Mrs. RK. Emily, learned Dy. GA on behalf of the State petitioners and Mr. M. Gunedhor, learned counsel along with Ms. L. Ashapriya, learned counsel for the respondents.

[2] These 4(four) Criminal Revision Petitions i.e. Cril. Rev. P. Nos. 17 of 2016, 18 of 2016, 19 of 2016 & 20 of 2016 have been filed under Sections 401 & 482 of CrPC, 1973 by the State of Manipur, being aggrieved by common judgment & order dated 17.08.2016 passed by the Ld. Sessions Judge, Thoubal in Cril. Appeal Case Nos. 2 of 2016, 3 of 2016, 4 of 2016 & 5 of 2016. By the impugned order dated 17.08.2016, the Ld. Sessions Judge, Thoubal set aside the common order dated 13.05.2016 passed by the Ld. Chief Judicial Magistrate (CJM), Thoubal in Cril. Misc. Case No. 66 of 2016 [Ref: Cril (Complaint) Case no. 73 of 2016]. By the order dated 13.05.2016, the Ld. CJM, Thoubal rejected the claim of the respondents herein, who are the vehicle owners and directed the 4(four) vehicles involved in forest offence be confiscated under Section 452 of Cr PC, 1973 read with Sections 54 & 55 of the Indian Forest Act, 1927 and vehicles be disposed of by auction sale and deposited as per law. Since the 4(four) vehicles are involved in the same offence, these 4(four) Criminal Revision Petitions are disposed of by this common order.

Brief facts of the present cases are as follows:-

[3] On 06.04.2016 at about 11:00 am, the police personnel of Khongjom Police Station apprehended 4(four) drivers namely (1) Shri. Ningthoujam Manilal Singh (2) Shri. Khundrakpam Hemanta Singh (3) Shri. Thingbaijam Kumar Singh and (4) Shri. Angam Haokip along with four Tata Trucks bearing No. MNO6T/0741, MNO3T/1051, MNO5C/2523 and

MN02A/6344, for illegal possession and transportation of 52 round logs of Khangra (Dipterocarpus tuberculatus) having volume of 51.31 cu. M. which is A-1 Class timber without any valid documents or permits. The four apprehended drivers along with the seized four Tata Trucks and Timber (Khangra) were handed over to the Forest Kakching Range Office. On 07.04.2016, DFO, Thoubal forwarded the four Accused Drivers along with report of the seizures of timber (Khangra) and four Tata Trucks before the Ld. CJM, Thoubal for trial under Sections 41(2), 52(1) of the Indian Forest Act read with Rules 33 (a) and 38 of the Manipur Forest Rules, 1971 and that the real owner of the timber, so claimed to be Premkumar Singh be traced out and punished as per law of the land. On the same day, i.e., on 07.04. 2016, the Ld. CJM, Thoubal took cognizance of the offence U/s 33(a) and 38 of the Manipur Forest Rules, 1971 against the four Accused drivers and convicted them on their respective plea of guilty and sentenced each of them till rising of the Court with fine of Rs. 500/-. After conclusion of the trial, disposal of the seized timber and the four Tata Trucks was taken up by the Ld. CJM, Thoubal under Cril. Misc. Case No. 66 of 2016. The Ld. CJM, Thoubal vide its order dated 13.05.2015 gave a finding that the persons claiming to be owner of the seized Tata Trucks respectively could not prove that their vehicles were used in committing the forest offence without their knowledge and connivance. Hence, it was ordered that the four Tata Trucks be confiscated to the Govt. of Manipur. Vide order dated 29.04.2016 in Cril. Misc. Case no. 66 of 2016 [Ref: Cril. (Complaint) Case No. 73 of 2016], Ld. CJM, Thoubal confiscated the 52 round logs of Khangra (timber) and directed the same to be disposed of by auction sale and proceeds be deposited as per law. Thereafter, by another order dated 13.05.2026 in Cril. Misc. Case No. 66 of 2016 [Ref: Cril. (Complaint) Case No. 73 of 2016] (which was impugned before the Ld. Sessions Judge, Thoubal), Ld. CJM, Thoubal rejected the application of the 4(four) owners of the truck (who are respondents herein) and directed

the vehicles to be confiscated under Section 452 of CrPC read with Sections 54 & 55 of the Indian Forest Act, 1927 and directed to dispose of the same by way of auction sale and proceeds be deposited as per law. While rejecting the application of the four truck owners, Ld. CJM, Thoubal heavily relied on the identical statement of the four drivers of the truck recorded by RFO, Kakching to the fact that the owners of the truck informed the drivers to go to Koijam Maring Village near Kongjom for loading of timbers. The four owners of the truck preferred four similar appeals being Cril. Appeal No. 2 of 2016 by Mr. Oinam Ranjit Singh, Cril. Appeal No. 3 of 2016 by Mr. Thiyam Amumacha Meitei, Cril. Appeal No. 4 of 2016 by Mr. Suankhogin Ngaite & Cril. Appeal No. 5 of 2016 by Mr. Oinam Gunamani Singh against the common order dated 13.05.2016 passed by the Ld. CJM, Thoubal in Cril. Misc. Case No. 66 of 2016 [Ref: Cril. (Complaint) Case No. 73 of 2016]. The common grounds in the appeals are :- (i) no opportunity has been given to the appellants (who are respondents herein) to present their respective cases, (ii) the Court below error in law as well as facts in making the findings based on statement given by the four Accused (Drivers), (iii) the Court below has failed to peruse the relevant records of the case, (iv) the evidence relied upon is not at all sufficient, adequate and reliable, (v) the four appellants were not forwarded for trial in the case & (vi) the impugned order is otherwise bad in law and is liable to be set aside.

[4] The owners of the vehicles filed MC(Cril. Rev. P.) No. 5 of 2016, 6 of 2016, 4 of 2016 and 3 of 2016 in Cril. Rev. P. Nos. 17 of 2016, 18 of 2016, 19 of 2016 & 20 of 2016 respectively for releasing the vehicles to the owners during the pendency of the present Cril. Revision petitions. Vide similar orders dated 05.12.2016, this Court allowed the application and directed to release the vehicles on executing a bond of Rs. 20,000/- with surety of like amount and with further directed that the vehicles

should not be used in the transportation of the forest produce during the pendency of the present Cril. Revision petitions. MC(Cril. Rev. P.) No. 7 of 2016 was also filed for clarification of the order dated 05.12.2016 for releasing vehicles seeking a relief to clarify the identity of the authority to whom the bonds have to be submitted and vide order dated 20.12.2016, MC(Cril. Rev. P.) No. 7 of 2016 was allowed by directing the bonds to be submitted before the Ld. CJM, Thoubal. MC(Cril. Rev. P.) No. 8 of 2016 is also filed for bringing on record the copy of the order dated 05.12.2016 passed by this Court in MC(Cril. Rev. P.) No. 5 of 2016, 6 of 2016, 4 of 2016 and 3 of 2016 along with MC(Cril. Rev. P.) No. 7 of 2016.

[5] In the impugned common judgment dated 17.08.2016, Ld. Sessions Judge, Thoubal held that the registered owners of the trucks were not the owners of the seized timbers and the trucks were available for hiring by any person on payment of hiring charges. The truck owners had no knowledge that the timbers collected/loaded by the trucks were illegal. It was further held that the burden of proving that the four registered owners of the seized vehicles had knowledge and connivance of the commission of the forest offence with the owners of the timbers, is on the prosecution. It was further observed that the doctrine of administration of criminal justice is that, "Accused shall be presumed to be innocent until proved guilty beyond reasonable doubt". It was observed that there was no material evidence placed on record by the prosecution that the four owners (respondents herein) had knowledge and connivance in the commission of the forest offence. The admitted fact is that the owner of the timbers hired the four trucks for transportation on payment of hiring charge, and not beyond that. It was further observed that the word "shall be liable for confiscation" in Section 55 of the Forest Act, 1927 does not mean that property stands automatically confiscated and it should be presupposed that an opportunity should be given to the person affected

before confiscation. In the conclusion, Ld. Sessions Judge, Thoubal set aside the order dated 13.05.2026 of Ld. CJM, Thoubal and four trucks were directed to be released to the registered owners, who are respondents herein.

[6] Being aggrieved by the common judgment and order dated 17.08.2016 passed by the Ld. Sessions Judge, Thoubal in Cril. Appeal Case Nos. 2 of 2016, 3 of 2016, 4 of 2016 & 5 of 2016, State authorities preferred the present Cril. Revision Petition Nos. 17 of 2016, 18 of 2016, 19 of 2016 & 20 of 2016 inter-alia on the following grounds:-

(i) Ld. Sessions Judge, Thoubal while passing the impugned order has failed to appreciate the mandate and object of the provision of the Sections 52, 54, 55, 56 and 59 of the Indian Forest Act, 1927 and also misinterpreted the same while passing the present impugned judgment and order.

(ii) Ld. Sessions Judge, Thoubal while passing the impugned judgment and order had failed to apply its judicious mind and also ignored the settled position of law of the land.

(iii) Ld. Sessions Court failed to take into consideration the factual position of the case on the basis of which Ld. Trial Court passed the judgment and order thereby arriving at a wrong findings and conclusion and passed the judgment and order which is contrary to the well settled proposition of law as laid by Hon'ble Apex Court in catena of cases.

(iv) Ld. Sessions Court has erred in allowing the Respondents to take the Tata Trucks which were used for carrying/transporting the illegal timbers by committing forest offence without any valid documents or permit which is against the statutory provisions as well as the decisions rendered by Hon’ble Apex Court in series of cases.

(v) In view of the reasons and grounds stated above, if the impugned judgment and order of the Ld. Sessions Judge, Thoubal is allowed to stand in the present form, the mandate and objective of the Indian Forest Act, 1927 and the Rules framed thereunder would be frustrated and the respondent will continue such forest offence. Consequently, it will cause miscarriage of justice.

(vi) In the facts and circumstances of the Case, the Ld. Sessions Court has grossly misinterpreted and abused the provision of the Indian Forest Act, 1927.

(vii) By releasing the Tata Trucks, great injustice has been caused to the State.

(viii) The impugned order is bad in law and deserves to be set aside in the interest of justice.

(ix) There are various grounds for setting aside the impugned order which may be allowed to be urged at the time of hearing.

[7] Mr. Y. Ashang, learned PP draws the attention of this Court to the provision of Sections 52, 53, 54, 55, 56 & 59 of the Indian Forest Act, 1927. He submits that Section 52 of the Act empowers seizure of property involved in forest offence liable to be confiscated; Section 53 of the Act enables the RFO to release property seized under Section 52 during the pendency of the trial; Section 54 of the Act empowers the Magistrate to take measures as may be necessary for the arrest and trial of the offender and the disposal of the property as per law; Section 55 of the Act empowers forest produce, tools etc. used in forest offence liable to be confiscated; Section 56 of the Act empowers disposal on conclusion of trial for forest offence of produce in respect of which it was committed; Section 59 of the Act provides appeal from orders under Sections 55, 56 & 57,

appeal to the Court to which orders made by Magistrate are ordinarily appealable and the order passed on such appeal shall be final. Learned PP further submits that Ld. Sessions Judge, Thoubal has misinterpreted the provisions of Sections 52, 53, 54, 55, 56 & 59 of the Indian Forest Act, 1927. From the statement of the truck drivers recorded by the RFO, it is clear that the drivers loaded the timbers on the instructions of the respective owners and in a special offence under Forest Act; when the owner of timbers is not the owners of the vehicle; the onus is on the owners of the vehicle to establish that they (owners of vehicles) do not have any information that the timbers to be transported was procured illegally or in violation of any provisions of the Indian Forest Act. The plea of the four owners has been contradicted by the statements of the drivers. Since the RFO is not a Police Officer, the statements recorded by him and any confession made to him will not be hit by provision of Sections 25, 26, 29 & 30 of the Indian Evidence Act, 1872 and as such, the statements of the drivers would be admissible in the trial against the owners of the vehicles. Learned PP refers to the decision of Hon'ble Supreme Court in the case of "**State of West Bengal & Anr. vs. Manua Sarkar in Civil Appeal no. 991 of 2002 order dated 27.02.2008**". The present case relates to the forest offence under amended Sections 59A & 59B of the Indian Forest Act, 1927 (West Bengal Amendment Act of 1988). Sub-clause 2 of Section 59B of the Amendment Act stated that no order of confiscation of any tool, rope chain, boat, vehicle or cattle shall be made under Section 59A, if the owner proves to the satisfaction of the authorized officer that the tools, vehicle was used in carrying timber or forest produce without knowledge or connivance of the owner himself or his agent. It is emphasized by learned PP that it is the owner, who has to prove that the vehicle was used for carrying timber or other forest produce without his knowledge or connivance or of his agent and his requirement is mandatory. It is submitted that Ld. Sessions Judge, Thoubal was wrong in

observing that the prosecution was to prove that onus is on the prosecution to prove that the owners of the vehicles had no knowledge about the timber to be transported was illegally procured. Learned PP refers to the decision of Hon'ble Supreme Court in the case of "**State of Karnataka vs. K. Krishnan: (2000) 7 SCC 80**, paras- 6, 7 & 8. Hon'ble Supreme Court was interpreting Sections 71-A, 71-C, 71-G, 62 & 2(7) of the Karnataka Forest Act, 1963 and was of the view that the provisions of the Act are required to be strictly complied with and followed for the purposes of achieving the object for which the Act was enacted and liberal approach in the matter with respect to the property seized, which is liable to confiscate, is uncalled for as the same is likely to frustrate the provisions of the Act. Further, it was held that when any vehicle is seized on the allegation that it was used for committing a forest offence, the same shall not normally be returned to a party till the culmination of all the proceedings in respect of such offence, including confiscatory proceedings, if any. No party shall be under the impression that release of vehicle would be possible on easier terms, when such vehicle is alleged to have been involved in commission of a forest offence. Any such easy release would tempt the forest offenders to repeat commission of such offences. Learned PP has pointed out that in the present case Ld. Sessions Judge, Thoubal was wrong in releasing the vehicles without making any further conditions. Learned PP also refers to another decision of Hon'ble Supreme Court reported in **2002 (1) SCC 495 (State of West Bengal vs. Gopal Sarkar)** where, Rs. 20,000/- bond for in lieu of confiscation is too low and is not enough. It is submitted that the impugned order passed by Ld. Sessions Judge, Thoubal be set aside and order passed by Ld. CJM, Thoubal, Judge be restored.

[8] On the other hand, Mr. M. Gunedhor, learned counsel for the respondents has pointed out that the judgment of '**State of West Bengal**

& Anr. vs. Manua Sarkar in Civil Appeal no. 991 of 2002' cited by learned PP is not applicable in the present case. It is pointed out that the judgment refers to the West Bengal Amendment Act in Forest Act by inserting Section 59B and the same is not applicable in the State of Manipur. It is also pointed out that the case of "**State of Karnataka vs. K. Krishnan**" (supra) is with respect to Karnataka Forest Act, 1963 and the same is not applicable in the State of Manipur. Learned counsel for the respondents has pointed out that in both cases, it was held by Hon'ble Supreme Court that confiscation notice have been issued to the owners of the vehicle and in the present case, no notice was issued to the owners of the vehicle and they appeared before the Ld. CJM, Thoubal themselves for releasing of their vehicles. Secondly, it is submitted that confession by drivers in the trial will not bound the owners of the vehicles, who are not co-accused in the proceeding before Ld. CJM, Thoubal. Learned counsel for the respondents refers to Section 30 of the Indian Evidence Act, 1872. It is submitted that the confession by one accused may be taken into consideration by the court as against such other co-accused who are being tried together with the accused, who makes the confession. However, learned counsel explains that such confession will not be applicable against the persons, who is not a co-accused in the trial. He refers to Section 30 of the Indian Evidence Act, 1872 specially Illustration (b) appended to Section 30 and the same reads as follows:-

> *SECTION 30. Consideration of proved confession affecting person making it and others jointly under trial for same offence.—When more persons than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and some other of such persons is proved, the Court may take into consideration*

such confession as against such other person as well as against the person who makes such confession.

[Explanation: "Offence" as used in this Section, includes the abetment of, or attempt to commit, the offence.]

Illustrations:

(a) *A and B are jointly tried for the murder of C*. It is proved that A said- "B and I murdered C". The Court may consider the effect of this confession as against B.

(b) *A is on trial for murder of C*. There is evidence to show that C was murdered by A and B, and that B said- "A and I murder C".

This statement may not be taken into consideration by the Court against A, as B is not being jointly tried."

[9] Illustrations (b) to the effect that when a person is not a co-accused in the joint trial, the confession by one of the accused shall not have affect a person who is not co-accused in the same trial. It is highlighted that in the present case, four owners of the vehicles are not co-accused in the proceeding before Ld. CJM, Thoubal and as such, any statement made by the drivers shall not affect them. It is submitted that Ld. CJM, Thoubal was wrong in presuming that the statement of the drivers made to the RFO can be considered against the owners of the vehicles to establish that the owners have knowledge of transporting timbers in illegal manner. It is submitted that the present Cril. Revision Petitions be dismissed and order passed by Ld. Sessions Judge, Thoubal be affirmed.

POINTS FOR DETERMINATION:

[10] The points for determination arose in the present Cril. Rev. petitions are

> **(i) Whether the owners of the vehicles would be presumed to have knowledge about the commission of forest offence i.e. transportation of illegal timber in contravention of Indian Forest Act, 1927?**
>
> **(ii) Whether the confessions by the accused (drivers of the vehicles) shall have an affect on the owners of the vehicles, who are not co-accused in the same criminal proceeding in view of Section 30 of Evidence Act, 1872 read with Illustrations (a) and (b)?**

[11] Before going into details, it will be relevant to reproduce Sections 52, 53, 54, 55, 56 & 59 of the Indian Forest Act, 1927 and the same are reproduced below:

> "*52. Seizure of property liable to confiscation.—(1) When there is reason to believe that a forest-offence has been committed in respect of any forest-produce, such produce, together with all tools, boats, carts or cattle used in committing any such offence, may be seized by any Forest-officer or Police-officer. (2) Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:*

Provided that, when the forest-produce with respect to which such offence is believed to have been committed is the property of Government, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

53. Power to release property seized under section 52.—Any Forest-officer of a rank not inferior to that of a Ranger who, or whose subordinate, has seized any tools, boats, carts or cattle under section 52, may release the same on the execution by the owner thereof a bond for the production of the property so released, if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

54. Procedure thereupon.—Upon the receipt of any such report, the Magistrate shall, with all convenient despatch, take such measures as may be necessary for the arrest and trial of the offender and the disposal of the property according to law.

55. Forest-produce, tools, etc., when liable to confiscation.—(1) All timber or forest-produce which is not the property of Government and in respect of which a forest-offence has been committed, and all tools, boats, carts and cattle used in committing any forest-offence, shall be liable to confiscation. (2) Such confiscation may be in addition to any other punishment prescribed for such offence.

56. Disposal on conclusion of trial for forest-offence, of produce in respect of which it was committed.-When the trial of any forest-offence is concluded, any forest-produce in respect of which such offence has been committed shall, if it is the property of Government or has been confiscated, be taken charge of by a Forest-officer, and, in any other case, may be disposed of in such manner as the Court may direct.

57. Procedure when offender not known or cannot be found.—When the offender is not known or cannot be found, the Magistrate may, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and taken charge of by the Forest-officer, or to be made over to the person whom the Magistrate deems to be entitled to the same:

Provided that no such order shall be made until the expiration of one month from the date of seizing such property, or without hearing the person, if any, claiming any right thereto, and the evidence, if any, which he may produce in support of his claim.

58. Procedure as to perishable property seized under section 52.—The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 52 and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold.

59. Appeal from orders under section 55, section 56 or section 57.—The officer who made the seizure under section 52, or any of his official superiors, or any person claiming to be interested in the property so seized, may, within one month from the date of any order passed under section 55, section 56 or section 57, appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final."

[12] From the above provisions, it is cleared that Section 52 of the Indian Forest Act, 1927 stipulates that when there is reason to believe that a forest offence has been committed in respect of any forest produce, along with tools, boats, carts or cattle etc. used in committing the offence may be seized by the Forest officer and seized articles under Section 52 may be released by a Forest officer not below the rank of Ranger on a bond that the owners of such vehicles or tools would produce the same before the Magistrate, if so required. Upon receipt of a report from the Authority, a Magistrate may take necessary steps for the arrest and trial of the offender and the disposal of the property under the provision of Section 54 of the Act. Section 55 of the Act provides for confiscation of forest produce which is not the property of Government and all the tools, boats, carts and vehicles used in committing forest offence shall be liable for confiscation and such confiscation will be in addition to any other punishment for prescribed for such offence. After the conclusion of the trial of the forest offence, any forest produce which is the property of the Government or which is confiscated shall be taken charge by a forest officer and may be disposed of as directed by the Court in terms of the provision of Section 56 of the Act. Section 57 deals a situation where the offender is not known or cannot be found or in such case, Magistrate may

pass appropriate order for confiscation of the forest produce and the tools used in committing of the offence. Section 58 of the Act provides for the procedure to be adopted by the Magistrate for disposal of the perishable property seized under Section 52. Section 59 of the Act provides appellate forum for any order passed under Sections 55, 56 & 57 of the Act by a Magistrate to the Court to which appeals are ordinarily appealable.

[13] It is clear from the wording of the provision of Section 52 of the Act that prior to seizure of any forest produce or tools used in committing the offence, there should be a reason to believe that forest offence has been committed. This shows that the initial onus of discharging the burden should be on the prosecution in view of Section 101 of the Indian Evidence Act, 1872. It will be wrong to shift the initial onus of proving the absence of knowledge for committing a forest offence to an accused/any persons thereof, when the statute does not cast any reverse presumption of such offence on the accused. On plain reading of the provision of Section 52, this Court does not find any duty cast on the accused to deny the commission of forest offence on the accused or any other persons, as the provision is clear that the existence of the reason to believe the commission of forest offence should be on the prosecution. This Court is of the view that Ld. CJM, Thoubal was wrong in presuming that forest offence has been committed qua the owners of the vehicle.

[14] Mr. M. Gunedhor, learned counsel has rightly pointed out that the judgment cited by learned PP in the cases of **State of West Bengal & Anr. vs. Manua Sarkar** (Supra) and **State of Karnataka vs. K. Krishnan** (Supra) are not applicable in the present case. While **Manua Sarkar** (Supra) is the case based on West Bengal Amendment of Sections 59A & B of Indian Forest Act, 1927 and the Amendment is not applicable in the State of Manipur. The case of **K. Krishnan** (Supra) is with respect to Karnataka Forest Act, 1963 and the provision is not applicable in the

State of Manipur. It is also admitted fact that there is no similar Amendment for the State of Manipur. This Court is of the view that the decisions of the Hon'ble Supreme Court in these two cases will not be applicable in the facts and circumstances of the cases.

[15] With regard to the findings of Ld. CJM, Thoubal that as per the confession made by the drivers of the vehicles (who have already been convicted on plea of guilty) to the fact that the owners of the vehicle instructed them to load the timber from Koijam Maring Village near Kongjom and as such, the owners of the vehicle have knowledge on the commission of forest Act. This Court is of the view that Ld. CJM, Thoubal was wrong in presuming that the owners of the vehicles had knowledge of the commission of the forest offence in absence of any information or indication to the owners that the timbers requested to be transported were illegally procured in contravention of the provision of the Forest Act. As observed above, Section 52 requires existence of reasonable materials for the commission of forest offence and in absence of any information, indication or material hints that the timbers were illegally procured, it would not be proper to presume that the owners of the vehicles have knowledge that the forest produce was illegally procured. As observed earlier, provision of Section 101 of the Indian Evidence Act, 1872 casts the initial onus of proving existence of foreign materials for commission of forest offence will always be on the prosecution and in absence of any statutory presumption (like in the nature of Section 304B IPC and Sections 29 & 30 of POCSO Act, so on), the initial onus of proving existence of forest offence cannot be shifted on the accused or any persons for refuting the same in absence of clause of reverse presumption on the accused.

[16] In the case of **Kashmira Singh v. State of M.P.: (1952) 1 SCC 275,** Hon'ble Supreme Court held as below with respect to Section 30 of Evidence Act.

10. In our opinion, the matter was put succinctly by Sir Lawrence Jenkins in Emperor v. Lalit Mohan, where he said that such a confession can only be used to "lend assurance to other evidence against a co-accused" or, to put it in another way, as Reilly, J. did in Periyaswami Moopan, In re [Periyaswami Moopan, In re, ILR (1931) 54 Mad 75 at p. 77 : 1930 SCC OnLine Mad 86] :

> "… the provision goes no further than this—where there is evidence against the co-accused sufficient, if believed, to support his conviction, then the kind of confession described in Section 30 may be thrown into the scale as an additional reason for believing that evidence."

12. Then, as regards its use in the corroboration of accomplices and approvers. A co-accused who confesses is naturally an accomplice and the danger of using the testimony of one accomplice to corroborate another has repeatedly been pointed out. The danger is in no way lessened when the "evidence" is not on oath and cannot be tested by cross-examination. Prudence will dictate the same rule of caution in the case of a witness who though not an accomplice is regarded by the Judge as having no greater probative value.

[17] A 5-Judge Bench of Hon'ble Supreme Court discussed the implication of confession by co-accused in the case of **Haricharan Kurmi v. State of Bihar: 1964 SCC OnLine SC 28 : AIR 1964 SC 1184**

13. As we have already indicated, this question has been considered on several occasions by judicial decisions and it has been consistently held that a confession cannot be treated as evidence which is substantive evidence against a co-accused person. In dealing with a criminal case where the prosecution relies upon the confession of one accused person against another accused person, the proper approach to adopt is to consider the other evidence against such an accused person, and if the said evidence appears to be satisfactory and the court is inclined to hold that the said evidence may sustain the charge framed against the said accused person, the court turns to the confession with a view to assure itself that the conclusion which it is inclined to draw from the other evidence is right. As was observed by Sir Lawrence Jenkins in Emperor v. Lalit Mohan Chuckerburty [(1911) ILR 38 Cal 559 at p. 588] a confession can only be used to "lend assurance to other evidence against a co-accused". In re Periyaswami Moopan [(1913) ILR 54 Mad 75 at p. 77] Reilly. J., observed that the provision of Section 30 goes not further than this:"where there is evidence against the co-accused sufficient, if believed, to support his conviction, then the kind of confession described in Section 30 may be thrown into the scale as an additional reason for believing that

evidence". In Bhuboni Sahu v. King [(1949) 76 IA 147 at p. 155] the Privy Council has expressed the same view. Sir John Beaumont who spoke for the Board, observed that "a confession of a co-accused is obviously evidence of a very weak type. It does not indeed come within the definition of "evidence" contained in Section 3 of the Evidence Act. It is not required to be given on oath, nor in the presence of the accused, and it cannot be tested by cross-examination. It is a much weaker type of evidence than the evidence of an approver, which is not subject to any of those infirmities. Section 30, however, provides that the court may take the confession into consideration and thereby, no doubt, makes it evidence on which the court may act; but the section does not say that the confession is to amount to proof. Clearly there must be other evidence. The confession is only one element in the consideration of all the facts proved the case; it can be put into the scale and weighed with the other evidence". It would be noticed that as a result of the provisions contained in Section 30, the confession has no doubt to be regarded as amounting to evidence in a general way, because whatever is considered by the court is evidence; circumstances which are considered by the court as well as probabilities do amount to evidence in that generic sense. Thus, though confession may be regarded as evidence in that generic sense because of the provisions of Section 30, the fact remains that it is not evidence as defined by Section 3 of the Act. The result, therefore, is that in dealing with a case against an accused person, the court cannot start with the confession of a co-accused person; it must begin with other evidence adduced by the prosecution and after it has formed its opinion with regard to the quality and effect of the said evidence, then it is permissible to turn to the confession in order to receive assurance to the conclusion of guilt which the judicial mind is about to reach on the said other evidence. That, briefly stated, is the effect of the provisions contained in Section 30. The same view has been expressed by this Court in Kashmira Singh v. State of Madhya Pradesh [(1952) 1 SCC 275 : (1952) SCR 526] where the decision of the Privy Council in Bhuboni Sahu case [(1949) 76 IA 147 at p. 155] has been cited with approval.

[18] In the case of **State of Maharashtra v. Kamal Ahmed Mohammed Vakil Ansari: (2013) 12 SCC 17**, it was held as below

19. The issue in hand can also be examined from another perspective, though on the same reasoning. Ordinarily, as already noticed hereinabove, a confessional statement is admissible only as against an accused who has made it. There is only one exception to the aforesaid rule, wherein it is permissible to use a confessional

statement, even against person(s) other than the one who had made it. The aforesaid exception has been provided for in Section 30 of the Evidence Act, which is being extracted hereunder:

> "30.Consideration of proved confession affecting person making it and others jointly under trial for same offence.—When more persons than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and some other of such persons is proved, the court may take into consideration such confession as against such other person as well as against the person who makes such confession.

20. Insofar as the present controversy is concerned, the substantive provision of Section 30 of the Evidence Act has clearly no applicability because Sadiq Israr Shaikh, Arif Badruddin Shaikh and Ansar Ahmad Badshah have not implicated any of the accused-respondents herein. The importance of Section 30 of the Evidence Act, insofar as the present controversy is concerned, emerges from Illustration (b) thereunder, which substantiates to the hilt one of the conclusions already drawn by us above. Illustration (b) leaves no room for any doubt that unless the person who has made a confessional statement is an accused in a case, the confessional statement made by him is not relevant. None of the accused in Special Case No. 4 of 2009 is an accused in Special Case No. 21 of 2006. As such, in terms of Illustration (b) under Section 30 of the Evidence Act, we are of the view that the confessional statement made by the accused in Special Case No. 4 of 2009 cannot be proved as a confessional statement in Special Case No. 21 of 2006. This conclusion has been recorded by us on the admitted position that the accused in Special Case No. 4 of 2009 are different from the accused in Special Case No. 21 of 2006. And further because, Special Case No. 4 of 2009 is not being jointly tried with Special Case No. 21 of 2006. Therefore, even though Section 30 is not strictly relevant, insofar as the present controversy is concerned, yet the principle of admissibility, conclusively emerging from Illustration (b) under Section 30 of the Evidence Act persuades us to add the same to the underlying common thread that finds place in the provisions of the Evidence Act, pertaining to admissions/confessions. That, an admission/confession is admissible only as against the person who has made it.

FINDINGS:

[19] On co-joint reading of the provisions of Section 30 of Evidence Act with Illustrations (a) & (b), it will be apparent that the confession of an accused may be considered against co-accused tried together in a same trial and such confession shall not be used against any other person who is not an accused along with the person making the confession. This principle is well settled in the above cited decisions.

[20] On bare perusal of Illustrations (a) & (b) appended to Section 30 of the Indian Evidence Act, it is clear that the statement made by an accused will not be applicable and cannot be considered by the Court against the person, who is not a co-accused in the same trial. In the present case, the owners of the vehicles were not accused along with the drivers in the proceeding before the Ld. CJM, Thoubal in Cril. Misc. Case no. 66 of 2016 [Ref: Cril. (Complaint) Case No. 73 of 2016]. Even if the confession of the four drivers, who were accused before the Ld. CJM, Thoubal, were recorded by RFO, Kakching and the same were not hit by provision of Section 25 of the Indian Evidence Act (Ranger being not a Police officer within the meaning of Section 25), the same will not fall within the ambit of the provision of Section 30 of Evidence Act so as to bind the owners of the vehicles. Such confession cannot be considered while disposing the applications of the owners of the vehicle for releasing the vehicles, for the simple reasons that the owners were not co-accused in the Cril. (Complaint) Case No. 73 of 2016 in terms of the provision of Section 30 of the Evidence Act read with Illustrations (a) & (b). This Court is of the view that Ld. CJM, Thoubal was wrong on relying the statements/confessions of the four drivers while rejecting the applications of the four owners of the vehicles for releasing the vehicles seized by the Forest officer, keeping in mind that the owners of the vehicles are not co-accused along with the drivers in the complaint case.

[21] The initial onus of proving commission of forest offence is on the prosecution and in absence of reverse presumption, such an onus cannot be shifted to the accused at the first instance to deny such offence.

[22] In view of the above, the Cril. Rev. P. No. 17 of 2016, Cril. Rev. P. No. 18 of 2016, Cril. Rev. P. No. 19 of 2016 & Cril. Rev. P. No. 20 of 2016 are dismissed being devoid of any merit.

[23] MC(Cril. Rev. P.) No. 8 of 2016 and pending applications, if any, are disposed of accordingly. Parties are to bear their own cost.

Oinam Thoiba Meitei

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JUDGE

FR/NFR

Thoiba