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			<u>CRLR/244/2014</u> Surendra Singh --Revisionist Versus State Of Uttarakhand --Respondent With <u>CRLR/236/2014</u> Gurveer Singh alias Ladi --Revisionist Versus State Of Uttarakhand --Respondent <u>Hon'ble Alok Mahra, J.</u> Ms. Unnati Pant, learned counsel for the revisionist in CRLR No. 244 of 2014 and Mr. Mukesh Singh Rawat, learned counsel for the revisionist in CRLR No. 236 of 2014 Mr. Deepak Bisht, learned Deputy Advocate General for the State of Uttarakhand. 2. Both the present Criminal Revisions arise out of the same judgment and order and involve common questions of fact and law. Accordingly, both the revisions are being decided by this common judgment. 3. The challenge in both the revisions has been made to the common judgment and order dated 13.10.2009, passed by learned Chief Judicial Magistrate, Udham Singh Nagar in Criminal Case No. 2590 of 2008, whereby the revisionist-Surendra Singh has been convicted under Section 51 of the Wild Life (Protection) Act, 1972 and has been directed to undergo rigorous imprisonment for a period of one year and directed to pay a fine of Rs. 5,000/- and, in default of payment of fine, he was directed to undergo additional simple imprisonment for a period of one month, whereas revisionist-Gurveer Singh alias Ladi has been convicted under Section 51 of the Wild Life (Protection) Act, 1972 and has been directed to undergo rigorous imprisonment for a period of three



		years and directed to pay a fine of Rs. 10,000/- and, in default of payment of fine, he was directed to undergo additional simple imprisonment for a period of one month. Challenge is also made to the common judgment and order dated 24.09.2014, passed by the learned Ist Additional Sessions Judge, Udham Singh Nagar, whereby the appeals filed against the order dated 13.10.2009 came to be dismissed by the learned Appellate Court. 4. Heard learned counsel for the revisionists and learned State Counsel and perused the record. 5. Briefly stated, the prosecution case is that on 14.06.2008, PW1 and PW2 received information that two persons were proceeding from Dineshpur Chowki Bend towards Chandrayan carrying a leopard skin and horns of <i>barasingha</i>. On receiving the said information, the raiding party reached the spot and allegedly noticed two persons walking while carrying bags on their shoulders. The raiding party intercepted them and conducted their search. During the search, a leopard skin measuring approximately five feet from head to tail, along with nails, was allegedly recovered from one bag, while horns/antlers of <i>barasingha</i> were allegedly recovered from the other bag. 6. Thereafter, an officer of the Forest Department was informed telephonically. On inspection of the recovered skin, he allegedly opined that the same was the skin of a leopard. The persons apprehended are stated to have disclosed that they were taking the said skin and horns to Rampur for the purpose of selling them. 7. As per the arrest and recovery memos, the recovery proceedings were allegedly conducted at the spot. In support of its case, the prosecution examined eight witnesses. PW1 to PW5 are the alleged recovery witnesses; PW6 is the Deputy Range Officer; PW7 is the Investigating Officer; and PW8 is the Forest Department official who lodged the
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		complaint. 8. Learned counsel for the revisionists has submitted that the prosecution has failed to establish beyond reasonable doubt that the articles allegedly recovered from the revisionists were in fact leopard skin and horns/antlers of <i>barasingha</i>. It is submitted that no Forensic Science Laboratory examination was conducted and no scientific or expert report was brought on record to establish the identity of the recovered articles. It is further submitted that there is no reliable evidence regarding the safe custody of the alleged recovered articles, as the malkhana register was not produced before the learned trial court. 9. Learned counsel has further pointed out a material contradiction in the prosecution evidence. PW6, the Deputy Range Officer, has categorically stated in his deposition that the search and seizure proceedings were prepared at the police station, whereas the recovery memo records that the proceedings were prepared at the spot. 10. Per contra, learned State Counsel has fairly admitted that no FSL examination of the recovered articles was conducted. However, it is submitted that PW6 was an officer of the Forest Department and, by virtue of his experience and official duties relating to wildlife, was competent to identify the recovered skin and horns/antlers. 11. In reply, learned counsel for the revisionists submits that merely being an officer of the Forest Department does not, by itself, establish the status of an expert for the purpose of proving the identity of the recovered articles. It is submitted that the prosecution was required to lead cogent and reliable evidence to establish that the articles allegedly recovered were in fact the prohibited wildlife articles alleged by it. 12. Having considered the rival submissions, this Court finds substance in the contention advanced on behalf of the revisionists. The
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		very foundation of the prosecution case is the alleged recovery of leopard skin and <i>barasingha</i> horns/antlers from the possession of the revisionists. Therefore, the prosecution was required to establish, by reliable and legally admissible evidence, the identity and nature of the articles allegedly recovered. Admittedly, no FSL report or any other scientific examination of the recovered articles was conducted. 13. Learned counsel for the revisionists draws the attention of the Court to Section 293 Cr.P.C. read with Section 45 of the Indian Evidence Act, 1872. 14. Section 45 of the Indian Evidence Act, 1872 contemplates opinion of persons specially skilled in a particular field. Further, Section 293 of the Code of Criminal Procedure, 1973 specifically deals with reports of certain Government scientific experts. The mere fact that PW6 was an officer of the Forest Department cannot, by itself, dispense with the requirement of proving the identity of the seized wildlife articles through cogent evidence, particularly when such identity is itself disputed. 15. The prosecution case is further rendered doubtful by the absence of convincing evidence regarding the safe custody and chain of custody of the alleged recovered articles. The malkhana register, which could have provided material evidence regarding deposit and preservation of the seized articles, was not produced before the trial court. 16. There is also a material contradiction with regard to the place where the search and seizure proceedings were prepared. While the recovery memo records that the proceedings were prepared at the spot, PW6 has stated that the same were prepared at the police station. This contradiction cannot be brushed aside as a mere minor discrepancy, particularly when the alleged recovery constitutes the principal basis of the prosecution case. 17. In view of the above, this Court is of the
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		view that the revisions deserve to be allowed and the revisionists deserve to be acquitted of the charges. 18. The present Criminal Revisions are allowed. The revisionists are acquitted of the charge under Section 51 of the Wild Life (Protection) Act, 1972. 19. The revisionists are on bail. Their bail bonds are cancelled and the sureties are discharged from their liability. The revisionists shall furnish personal bonds and two sureties each in the like amount to the satisfaction of the court concerned, subject to compliance with Section 437-A Cr.P.C., if applicable. 20. Let the lower court record be transmitted forthwith along with a copy of this judgment. (Alok Mahra, J.) 19-08-2026 SB BINUOLA
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