



WEB COPY



CrI.OP.No.7076 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2026

CORAM:

THE HON'BLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

CrI.OP.No.7076 of 2026

in

CrI.A.SR.No.86870 of 2025

State through:

The Additional Superintendent of Police,
CBI, STB, Chennai.

...Petitioner

Vs.

K.R.Nagarajan

...Respondent

Criminal Original Petition filed under Section 378(4) of Cr.P.C. r/w. 419(4) of BNSS, seeking to grant leave to file this criminal appeal against the acquittal Judgment dated 05.04.2025 in C.C.No.767 of 2023 passed by the learned Chief Judicial Magistrate, Coimbatore.

For Petitioner : Mr.K.Srinivasan, Spl.PP

For Respondent : Mr.K.Balasubramaniam

ORDER

This criminal original petition has been seeking to grant leave to the petitioner-state to prefer an appeal as against the acquittal judgment dated

1/8



CrI.OP.No.7076 of 2026

05.04.2025 made in C.C.No.767 of 2023 by the learned Chief Judicial Magistrate, Coimbatore.

2. The brief facts necessary for disposal of this case are as follows:

2.1 The case of the prosecution is that on secret information received by the Forest officials of the Kothagiri Forest range, a search was conducted by a team consisting of the Forest, revenue and police officials at the residence of the respondent/accused on 10.08.2021 between 10.00 am and 03.30 pm, during which, several incriminating materials such as 83 numbers of ivory articles and elephant tusk were seized, which led to filing of a case in WLOR No.6 of 2021 dated 11.08.2021 by the Kothagiri Forest Range and the respondent/accused was remanded to judicial custody.

2.2 The case was subsequently re-registered by STB, Chennai as Crime No.RC.4/S/2022/CBI/SCB/Chennai, for a detailed investigation and during the course of the investigation, it was found that out of the 83 items seized from the residence of the respondent/accused, 42 items are made of elephant ivory, which are prohibited under law and were kept in the personal possession of the respondent/accused without obtaining any permission from the competent authority.



CrI.OP.No.7076 of 2026

2.3 Consequently, the final report was filed before the learned Chief Judicial Magistrate, Coimbatore, for the offences under Sections 39(1)(b), 39(2), 39(3)(a), 40(2) and 49 r/w. 51 of the Wildlife (Protection) Act, 1972 and the same was taken on file in C.C.No.767 of 2023.

2.4 However, the trial Court, vide judgment dated 05.04.2025, acquitted the accused from all the above said charges. Aggrieved by the same, the State has preferred the present petition seeking leave to file an appeal against the acquittal judgment.

3. Learned Special Public Prosecutor appearing for the petitioner submitted that though the prosecution, by adducing cogent evidence, had proved that the respondent/accused was in illegal possession of ivory articles and elephant tusk, merely because there were certain discrepancies in the case records prepared by the Tamil Nadu Forest officials relating to the date and time of seizure of articles from the residence of the respondent/accused, arrest of the respondent/accused, the confession statement given by the respondent/accused, the date on which the witnesses have signed the documents etc., the trial court had acquitted the respondent/accused from all the above charges by holding that the prosecution failed to prove the charge



CrI.OP.No.7076 of 2026

of illegal possession of ivory articles and elephant tusk beyond reasonable doubt, which is not sustainable. He further relied on Section 57 of the Wildlife (Protection) Act, to establish a rebuttable presumption of unlawful possession, which the trial court had miserably failed to consider. He also submitted that the petitioner has got a good case on merits and that there are arguable points available in the criminal appeal and the petitioner/appellant has a fair chance of succeeding in the appeal. Accordingly, he prayed for allowing this petition.

4. Per contra, the learned counsel appearing for the respondent/accused submitted that the trial court, after careful consideration of the materials placed on record and the evidence adduced on either side, acquitted the respondent/accused from all the charges, which cannot be said to be erroneous. Accordingly, he prayed for dismissal of this petition.

5. This Court gave its careful consideration to the arguments advanced by the learned counsel on either side and perused the materials available on record.



6. For better appreciation of the issue on hand, Section 57 of the Wildlife (Protection) Act relied on by the learned Special Public Prosecutor is extracted hereunder:

“Presumption to be made in certain cases. – Where, in any prosecution for one offence against this Act, it is established that a person is in possession, custody or control of any captive animal, animal article, meat, trophy, uncured, trophy, specified plant, or part or derivative thereof, it shall be presumed until the contrary is proved, the burden of proving which shall lie on the accused, that such person is in unlawful possession, custody or control of such captive animal, animal article, meat, trophy, uncured trophy specified plant, or part or derivative thereof.”

7. On a perusal of the above provision, it is seen that there is a statutory presumption available under Section 57 of the Act and that once the possession, custody or control of any captive animal, animal article, meat or trophy is established, the burden shifts upon the accused to satisfactorily account for the same.

8. In the case on hand, it is the case of the prosecution that 83 numbers of ivory articles and elephant tusk were recovered from the



CrI.OP.No.7076 of 2026

residence of the respondent/accused out of which, 42 items are made of elephant ivory. In such circumstances, the presumption under Section 57 of the Wildlife (Protection) Act applies on all fours to the case on hand. However, the trial court, without advertng to the above statutory presumption, acquitted the respondent/accused from all the above charges.

9. In view of the above, this Court is satisfied that there are arguable points available which has to be determined in the appeal stage and therefore, this petition stands allowed and leave is granted to the petitioner to prefer an appeal.

10. Registry is directed to number the Criminal Appeal, if the papers are otherwise in order and list the same for admission in due course.

18.03.2026

skt

NCC : Yes/No



CrI.OP.No.7076 of 2026

WEB COPY

To:

1. The Chief Judicial Magistrate,
Coimbatore.
2. The Additional Superintendent of Police,
CBI, STB,
Chennai.
3. The Public Prosecutor,
Madras High Court.



WEB COPY



CrI.OP.No.7076 of 2026

A.D.JAGADISH CHANDIRA, J.

skt

CrI.OP.No.7076 of 2026
in
CrI.A.SR.No.86870 of 2025

18.03.2026