

**Sidheswar Panda Vs. the State**

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**SooperKanoon Citation :** [sooperkanoon.com/524312](http://sooperkanoon.com/524312)

**Court :** Orissa

**Decided On :** Mar-18-1953

**Reported in :** AIR1954Ori16; 19(1953)CLT263

**Judge :** Panigrahi, C.J.

**Acts :** [Forest Act, 1927](#) - Sections 26 and 69; Hindol (Assam) Forest Rules - Rule 97; [Evidence Act, 1872](#) - Sections 114

**Appeal No. :** Criminal Revn. No. 223 of 1952

**Appellant :** Sidheswar Panda

**Respondent :** The State

**Advocate for Def. :** Govt. Adv.

**Advocate for Pet/Ap. :** R. Das, Adv.

**Disposition :** Revision allowed

**Judgement :**

ORDER

Panigrahi, C.J.

1. The petitioner has been convicted under Rule 97 of the Hindol Forest Rules read with Section 26 (f) and (g), Forest Act and sentenced to pay a fine of Rs. 50/-

in default to undergo R. I. for one week. The facts proved against him in brief are that he was found in possession of 31 pieces of sal timber on 17-7-51. The forester Paramananda Das suspected that these might have been removed from the Government forest and demanded the production of permit from the accused. The accused said that he had got the timber logs from one Mr. Naylor under a permit and that the logs had borne hammer marks. No permit was produced and the prosecution evidence is that there were no hammer marks. On these facts, the petitioner, along with 4 others, was prosecuted for a forest-offence but the other persons have been acquitted by the Magistrate and the petitioner alone was found guilty of being in possession of forest produce without a permit.

2. The trial court itself remarks 'there is absolutely no evidence on record to show that the seized timber's were felled or removed from any Government Forest by any one of the accused persons.' In the absence of any evidence that these logs were Government property, I fail to understand how the conviction of the petitioner can stand for illegal removal of forest produce from a reserved area. The rules at best raise a presumption that in the absence of evidence, it shall be presumed that they are Government property, but this is only a rule of evidence and the accused cannot be convicted on a mere presumption. It was the duty of the prosecution to establish that some timbers had been felled and removed from the Government forest, and that the timbers in possession of the accused corresponded to the logs illegally removed from the Government forest.. I am not satisfied that the prosecution has established any connection between the logs seized and the Government forest logs. It may well be that the accused may have obtained these logs from elsewhere outside the Hindol area. It may also be that he had failed to explain wherefrom he had obtained them. It does not therefore follow that the failure of the accused to explain satisfactorily relieves the prosecution of the burden to prove that these constituted Government property and had been illegally removed. I would therefore hold that the offence has not been brought home to the accused and that his conviction cannot stand.

This revision is accordingly allowed and the conviction and the sentence of the petitioner must be set aside, and the fines if paid must be refunded; and the sale-proceeds of the logs shall be paid over to the petitioner.

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