



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 282 OF 2016

1. Syed Burhan Syed Nabi,
Adult, Occ. Business,
R/o. Lakkadganj, Malipura, Dist. Akola.
2. Sk. Kadir Sk. Vazir,
Adult, Occ. Driver,
R/o Akot File, Behind Hotel Mahek, Akola.
Tq. and District Akola.
3. Mahendra Anil Madipal,
Adult, Occ. Business,
R/o Maratha Nagar, Ratanlal Plot,
Akola, Tq. and District Akola.

..PETITIONERS

--Versus ---

1. State of Maharashtra,
Through Authorised Officer and Assistant
Conservator of Forest (Tendu) Dist. Washim.
2. The Divisional Forest Officer,
Akola, Tq. and District Akola,
3. Prashant Arvind Deulgaonkar,
aged about adult, Occ. Business.
R/o Ratanlal Plot, Akola.

.. RESPONDENTS

Shri R.P. Masurkar, Advocate for the petitioners.
Mr. A.M. Deshpande Additional Public Prosecutor for respondent nos. 1
and 2.

**CORAM : SUNIL B. SHUKRE &
PUSHPA V. GANEDIWALA, JJ.**

DATE OF RESERVE : 28th MARCH 2019

DATE OF PRONOUNCEMENT : 4th MAY 2019

JUDGMENT : (Per Pushpa V. Ganediwala, J.)

1. Rule. Rule is made returnable forthwith. Heard finally by consent of parties.

2. This petition is directed against an order of dismissal dated 8th March, 2016 passed by the learned Additional Sessions Judge, Akola, in Criminal Appeal No. 29 of 2011 of the petitioners under Section 61-D of the Indian Forest Act, 1927, (hereinafter referred to as the Act of 1927). The said appeal arose out of the order dated 29.12.2008 passed by the Assistant Conservator of Forests in confiscation proceedings initiated under Section 61-A of the said Act of 1927.

3. In the impugned confiscation proceedings, the learned Authorized Officer directed confiscation of Marshall Jeep bearing registration No. MH 30-AF 294 and 52 cut sized teak wood logs ad-measuring 0.501 cubic meters as the same was being transported without transit pass. A Ford ICON Car bearing registration No. MH-26-M-786 was also confiscated as the same was being used in the commission of the offence under the Forest Act of 1927.

4. The factual matrix, in brief, necessary to decide the present petition is as under :

i) The Petitioner No. 1 claims to have a license for carrying on business of manufacturing furniture etc. in the name and style as "National Industries" at Patur, Dist-Akola. As an ancillary business, he is selling and purchasing teak wood. Petitioner no.2 is a driver and Petitioner no.3 is running the business of Carpentry at Akola.

ii) It is the case of petitioner no.1 that he had purchased 119 teak wood logs standing in the field of Mr. Lachhu Sitaram Rathod bearing Survey No.183/1 at Village Sawargaon. The same was transported to Patur after obtaining transit pass bearing No. 222898 on 14.06.2008. Vide order dated 29.06.2008 bearing No.355/200-09 the Forest Department granted permission to petitioner no.1 to convert 119 teak wood logs into customized finished goods from time to time and lastly the permission was extended upto 20.12.2008 and the same was verified by the Forest Department. Petitioner no.1 further submitted that he had purchased another 139 teak wood logs ad-measuring 7.361 cubic meters in an auction conducted by the Forest Department. The said 139 teak wood logs were transported vide transit pass bearing no.647127 from Shendurjana Depot to Patur, vide order dated 08.08.2008. It is further stated that the Forest

Department vide order No.501/2008-09 dated 21.08.2008 granted permission to petitioner no.1 to convert 139 teak wood logs into customized finished goods from time to time.

(iii) It is further the case of petitioner no.1 that he converted teak wood logs into customized finished goods and sought to sell 52 cut sized finished teak wood logs ad-measuring 0.501 cubic meters on 29.12.2008 to Mr. Sayyad Ayaz Syed Ayub, R/o Akola. As per his request, the finished goods were to be delivered at Akola. Petitioner no.1 had arranged for transportation of the finished goods in his Marshall Jeep bearing No. MH 30-AF 294. Accordingly, a bill dated 29.12.2008 was raised by petitioner no.1 amounting to Rs.17,262/- inclusive of VAT @4%.

(iv) The grievance of petitioner no.1 is that on 29.12.2008 the Forest Officer stopped his Marshall Jeep bearing No. MH 30-AF 294 during transit from Patur to Akola. On account of non availability of transit pass, the said Marshall Jeep was seized under Section 52 of the said Act of 1927. Seizure Panchanama was prepared in respect of the seized articles on 29.12.2008 at Forest Office, Akola. On the same day, the Forest Officer inspected ICON Car bearing registration No. MH-26-M-786 belonging to petitioner no.1, which was passing from Patur to Akola. Since, there was suspicion about the use of this Car in

the commission of the crime, the said Car was also seized under Section 52 of the said Act of 1927 and a spot panchanama was drawn. The Range Forest Officer recorded the statement of witnesses.

(v) On the basis of the inquiry report, submitted by the Range Forest Officer, Patur, forest offence came to be registered vide crime No. 451/2009 and at the same time, the Assistant Conservator of Forests, on being satisfied about the commission of forest offence, issued show cause notice to the petitioner no. 1 on 01.08.2009 under Section 61 -B of the said Act of 1927.

(vi) In the meantime, petitioner no.1 approached vide application/ supratnama dated 03.01.2009 for custody of aforesaid ICON Car bearing registration No. MH-26-M-786 before the learned Judicial Magistrate First Class, Akola. His application was rejected for want of jurisdiction vide order dated 04.02.2009. The said order of rejection was assailed in the Revision bearing No. 39 of 2009 before the learned Additional Sessions Judge, Akola. The learned Additional Sessions Judge, Akola, vide order dated 01.07.2009 allowed it and remanded the matter to the Judicial Magistrate First Class, Akola, for reconsideration. There is nothing on record to show that the learned Magistrate reconsidered the application for custody of the vehicle ICON Car to the petitioner or the petitioner himself has again

approached before the Court of Magistrate.

(vii) After investigation, a charge-sheet in the said Crime No. 451/2009, was filed before the Court of Judicial Magistrate First Class, for the offence punishable under Section 42 of the said Act of 1927 read with Rules 66, 80, 82, 88 and 129 of the Bombay Forest Rules, 1942.

(viii) Here, in the confiscation proceedings before the Assistant Conservator of Forests, the evidence of the witnesses were recorded. After giving due opportunity of hearing to the petitioner and on being satisfied about the commission of the forest crime, the learned Assistant Forest Officer passed an order on 02.02.2011 confiscating aforesaid vehicles and the 52 cut sized teak wood logs.

(ix) The impugned order of confiscation was assailed by petitioner no.1 in appeal bearing Criminal Appeal No. 29/2001 under Section 61(D) of the said Act of 1927 before the appellate authority i.e. the learned Additional Sessions Judge, Akola, who in his turn dismissed the same and maintained the order of Assistant Conservator of Forests. Feeling dissatisfied, the petitioners are before this Court.

5. We have heard Shri R.P. Masurkar, learned counsel

appearing for the petitioners and Shri A.M. Deshpande, learned Additional Public Prosecutor appearing for respondent nos. 1 and 2 and perused the record of the case.

6. Shri Masurkar, learned counsel for the petitioners submitted that the entire case of the Forest Department is based upon the presumption under Section 69 of the said Act of 1927 which says, unless contrary is proved, all the forest produce presumed to be belonged to the Government. It is argued that petitioner no.1 produced all the relevant documents to show that 52 cut sized teak wood, which were seized by the Forest Officer, were prepared from the logs and those logs were not prepared from the tree brought from the reserve forest, by illegally felling it. The said logs were purchased in an auction sale held by the Forest Department and some of them from the private owners. Both the vehicles of the petitioner were illegally confiscated without proof of the commission of the forest crime. The learned counsel vehemently pressed for release of the properties. In support of his submissions the learned counsel has placed reliance on the judgment of the Orissa High Court in the case of **Siddheshar Panda Vs. The State**, reported at **AIR 1954 Orissa 16** and the judgment of this Court in **Criminal W.P.No.733/2015** decided on 20.09.2017 (Bhagwandas Agrawal Vs.

State of Maharashtra and others)

7. Per contra, the learned APP appearing for respondent nos. 1 and 2 supported the impugned order. He submitted that the petitioners were given sufficient opportunity to defend themselves, however, no material was placed on record in order to substantiate their claims that the seized logs of teak wood were being transported with the permission of the forest officials and they have a valid transit pass for the same. Similarly, the petitioners have not placed on record so as to point out that as per the permission granted by the forest department for cut wood purchased by petitioner no.1 i.e. 52 teak wood logs, were a part of the same wood for which permission of cutting was granted and as such, the order of confiscation is just and proper. It is further submitted that the Ford ICON Car was used to create obstructions in the way of forest officials to catch the Marshall Jeep in which the forest produce was being illegally transported. Learned APP in support of his submissions relied upon the judgment in the case of **Divisional Forest Officer and anr. vs. G.V.Sudhakar Rao and others**, reported in **(1985) 4 Supreme Court Cases 573**, and pressed for dismissal of the petition.

8. We have considered the submissions made on behalf of

respective parties and perused the record.

9. First and foremost, in order to assess the legality, propriety and correctness of the order of confiscation passed by the Assistant Conservation of Forests and confirmed by the learned Additional Sessions Judge, Akola, it would be beneficial to first look into the relevant provisions of the Indian Forest Act of 1927 and the rules framed thereunder.

10) The Indian Forest Act, 1927 was enacted in order to consolidate the laws relating to forests, the transit of forest produce and the duty leviable on timber and other forest produce. The said Act of 1927 is made applicable to the State of Maharashtra (earlier State of Bombay) since its inception.

As per interpretation clause in Section 2 of the said Act, sub section 3 defines 'forest-offence' which means "an offence punishable under this Act or under any rule made thereunder".

Sub-section 4 of Section 2 defines 'forest-produce' which *inter-alia* includes 'timber' whether brought from forest or not.

Sub-section 6 of Section 2 defines 'timber' which includes trees when they have fallen or have been felled, and all wood whether cut up or fashioned or hollowed out for any purpose or not.

11) Chapter VII of the said Act of 1927 comprises Sections 41 to 44, is relating to the control of timber and other forest produce in transit.

Section 41 empowers the State Government to make rules to regulate transit of forest produce. Section 42 empowers the State Government to make rules, prescribing penalties for the contravention of the rules made under Section 41. Accordingly, for the State of Bombay 'Bombay Forest Rules, 1942' have been framed. For the purpose of deciding the present petition, Rule 66 and Rule 129 are relevant which read thus:

Rule 66. Regulation of transit of forest produce by means of passes:

“No forest-produce shall be moved into, or from, or within any district of the pre-Reorganisation State of Bombay excluding the transferred territories except as hereinafter provided, without a pass, from some officer or person duly authorized by or under these rules to issue such pass, or otherwise than in accordance with such conditions of such pass or by any route or to any destination other than the route or destination specified in such pass.”

Provided that no pass shall be required for the removal of

- a) except to a bunder, landing place or railway station.*
- i) of any forest-produce which is being removed for private consumption by any person in exercise of a*

privilege granted in his behalf by the State Government, or of a right recognized under the Act, within the limits of a village as defined in the Bombay Land Revenue Code, 1897, in which is produced.

ii) of twigs, leaves, brushwood and grass intended solely for conversion into ash-manure.

(b) of firewood not exceeding three inches in diameter of the thickest part, grass or leaves, the property of one person or the joint property of two or more persons, which is conveyed in quantities not exceeding one headload once in 24 hours unless it be brought to a bundar, landing place or railway station or to any areas to which the State Government may from time to time declare by notification in the Bombay Government Gazette that this exemption shall not extend, or

(c) of such forest-produce as may be exempted State Government may from time to time declare by notification in the Bombay Government Gazette.

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Rule 129 relates to Penalties for breach of certain rules:

129. Penalties for breach of certain rules:

“Whoever contravenes the provisions of rules 66, 70, 71(3), to (7), 72, 75, 76, 80 to 82, 84, 85(2), 86, 88, 102, 104, 105, 107 to 109 or 113 shall be punishable with imprisonment for a term which may extend to

six months or with fine which may extend to five hundred rupees or both.”

12. In short, rule 66 provides for 'transit pass' for territorial movement of the forest produce by the persons and Rule 129 provides for penalty *inter-alia* in case of breach of rule 66 which is in the nature of imprisonment or fine or both.

13. Coming back to the Scheme of the Act of 1927, Chapter IX comprises Sections 52 to 69, relating to Penalties and Procedures.

Section 52 provides for Seizure of property liable to confiscation which reads thus :

“Section 52(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”.

14. It is pertinent to note that as the subject 'Forest' is in the concurrent list at serial no. 17A of the Constitution of India, and as the field has already been occupied by the Central enactment, many of the States have amended the Act by modifying and/ or inserting the provisions in the said Act, to have deterrent effect, thereby acknowledging the importance of forest in the present scenario.

15. As per Maharashtra Amendment Act 6 of 1961, Section 52(1-A) was added after sub section 1 of section 52, which reads thus :

“Section 52(1-A) Any Forest Officer or Police Officer may, if he has reason to believe that a vehicle has been or is being used for the transport of forest-produce in respect of which there is reason to believe that a forest-offence has been or is being committed, require the driver or other person in charge of such vehicle to stop the vehicle and cause it to remain stationary as long as may reasonably be necessary to examine the contents in the vehicle and inspect all records relating to the goods carried which are in the possession of such driver or other person in charge of the vehicle”.

16. Section 61 empowers the Authorized Officer to immediately release any property seized under Section 52, which is not the property of the Government. In its application to the State of Maharashtra after Section 61, Section 61-A to 61-G came to be inserted, which provide for confiscation proceedings before the Authorized Officer.

17. Section 61-A empowers the Authorized Officer to confiscate the property which was seized under sub-section (1) of Section 52, if he has reason to believe that the forest offence has been committed. However, before initiation of confiscation proceedings, it is mandatory on the part of the Authorized Officer under Section 61-B to issue show cause notice in writing to the person from whom it is seized and to consider his objections, if any.

18. Section 61-C provides for Revision which empowers any Forest Officer, not below the rank of Conservator of Forests, specifically empowered by the State Government in this behalf by notification in the Official Gazette, who may suo motu call for and examine the record of the order of the authorized officer under Section 61-A and may make such inquiry or cause such inquiry to be made and may pass such orders as he deems fit.

19. Section 61-D provides for an appeal against an order passed under Section 61-A before the Court of Sessions having jurisdiction over the area in which forest property was seized and the order of seizure was passed by the authorized officer.

20. These provisions i.e. Section 61-A to 61-G appear to be a complete Code for regulating the confiscation proceedings, which is obviously an independent proceeding, separate and distinct from an inquiry before the Court of Magistrate in the commission of forest offence. This Court in the case of **State of Maharashtra and others Vs. Smt.Taranjeet Kaur reported 1992 Cr.L.J. 1398,** gave importance of introduction of Sections 61-A to 61-G in the following words :

“The importance of Section 61-A to 61-G, by the Maharashtra Act of 7 of 1985, has a definite objective i.e. to plug all possible loopholes in enforcing the provisions of the Act relating to preventing the ever increasing menace of illegal and ruthless exploitation of Government forest. Serious consequences ensue not only against those who are guilty of commission of forest offence but also against those who render aid in its commission. For variety of reasons, theoretical as well as practical, it is very difficult to detect the offence and thus, prevention is better than

cure".

21. The Hon'ble Supreme Court in the case of G.V.Sudhakar Rao and others (supra), held that there is no conflict of jurisdiction between the Authorised Officer under the Act for confiscation proceedings on his being satisfied that the forest offence has been committed and the Magistrate making an order for confiscation of the property so seized on a conviction of the accused for the forest offence. It is made clear that Sections 452 and 457 of Criminal Procedure Code are not applicable where the confiscation proceeding is taken under the Act. The Hon'ble Supreme Court in the case of **State of West Bengal V/s Sujit Kumar Rana** reported in (2004) 4 SCC 129, has held that once the confiscation proceedings have been initiated by the forest authorities, the Magistrate can not order release of vehicle under section 451 of the Code of Criminal procedure. In a recent judgment of the Hon'ble Supreme Court in the case of **State of M.P. and others Vs. Udaysingh and others** (Criminal Appeal Nos. 524/2019 with 525/2019 decided on 26.03.2019), the Hon'ble Supreme Court while relying upon the judgment in the case of G.V.Sudhakar Rao, (supra) has reiterated that the Court of Magistrate has no power to release the property under Section 451 of

the Code of Criminal Procedure, once the Authorized Officer initiated the confiscation proceedings.

22. Section 69 provides for presumption in favor of the forest produce to be belonging to the Government, which reads thus :

“69. Presumption that forest-produce belongs to Government : When in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any forest-produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved.”

23. In the backdrop of the aforesaid legal and judicial set up, now, we consider the facts of the present case.

In the instant case, admittedly, the petitioners were found transporting 52 cut sized teak wood logs in their Marshall Jeep bearing No. MH-30/AF-294 near Morna bridge without a valid transit pass. Evidently, the 52 cut sized teak wood were nothing but the 'timber' i.e. 'Forest Produce' as defined in the said Act of 1927. It is the case of petitioner no.1 that the aforesaid teak wood logs were purchased by him from one Lachhu Sitaram Rathod & some of them in an auction sale conducted by the Forest Department. However, as rightly concluded by both the courts below that he could not establish

that 52 cut sized teak wood logs kept in his Marshall Jeep were the same which were purchased by him as stated above. Even though it is presumed that these logs were purchased by him, however, for transit of the aforesaid forest produce, he could not produce a valid transit pass, as required under Rule 66 of the Bombay Forest Rules, 1942. These facts are more than sufficient for the learned Authorised Officer to believe that the forest offence has been committed as contemplated under Rule 66 r/w Rule 129 of the Bombay Rules.

Furthermore, Rule 68 of the said Rules provides for 'Passes what to contain' which states that passes to contain the name of the person to whom such pass is granted, the quantity and description of the forest-produce covered by it, the name of the village and the survey number in which it was produced, the places and the route from and to which such forest-produce is to be conveyed. There appears some salutary object behind these provisions in order to regulate illegal trafficking in forest produce which have deleterious effect on the natural resources, resulting in ecological imbalances.

24. The Hon'ble Apex Court in the case of Udaysingh (supra) in para 27 has recorded the purpose and the object of the deterrent provisions in the State enactments in order to abide by the

constitutional directives (Art.48A) in Part IV of the Constitution of India and Fundamental Duties under article 51A (g) of the Constitution of India. In the said judgment Their Lordships have observed thus :

“Protection of forests against depredation is a constitutionally mandated goal exemplified by Article 48 A of the directive principle and the fundamental duty of every citizen incorporated in Article 51 A (g). By isolating the confiscation of forest produce and the instruments utilized for the commission of an offence from criminal trials, the legislature intended to ensure that confiscation is an effective deterrent. The absence of effective deterrence was considered by the legislature to be a deficiency in the legal regime. The State amendment has sought to overcome that deficiency by imposing stringent deterrents against activities which threatened the pristine existence of forest in Madhya Pradesh. As an effective tool for protecting and preserving environment, these provisions must receive a purposive interpretation.”

It is further observed thus :

“it is only when the interpretation of law keeps pace with the object of the legislature that the grave evils which pose a danger to our natural environment can be suppressed. The avarice of human kind through the edges has resulted in an

alarming depletion of the natural environment. The consequences of climate change are bearing down on every day of our existence. Statutory interpretation must remain eternally vigilant to the daily assaults on the environment.”

25. In the instant case, even, petitioner no. 1 has neither proved the ownership of the seized forest produce nor established that the 52 cut sized teak wood logs do not come within the definition of 'timber' as contemplated under the Act. Consequently, the presumption under Section 69 of the said Act of 1927, was rightly pressed into service during the confiscation proceedings, which was confirmed by the appellate Court.

26. The judgments relied upon by the learned counsel for the petitioners during his submissions with due respect are distinguishable on the facts and the law applicable to the present case. The judgment of Orissa High Court in the case of Siddheshwar (supra) was on the point of forest offence and not on the confiscation proceedings as in the present case. While, in the judgment of this Court in the case of Bhagwandas Agrawal (Supra), the seizure of the forest produce was not during transit but during the raid in the saw mill of the owner.

27. So far as confiscation of ICON Car bearing No. MH-26/M-786 is concerned, admittedly, in the said ICON Car, no forest produce was found. The said Car was following the Marshall Jeep. It is the case of the respondents-State that the said ICON Car was kept to guard illegal activities of the petitioners, carrying forest produce without transit pass. Such a case, however, is stranger than fiction and hence has to be dismissed as utterly unbelievable. If a Car is entrusted with the job of keeping guard over another vehicle like a shadow over it, such a car has to remain itself ahead of the vehicle which is being covered by it and not tail the vehicle which it seeks to protect. The reason being that protection can be given by remaining in the front and care post an event, when required, can only be given by a Car which is behind the other vehicle. Therefore, it was necessary for the Forest Officers to bring on record some more facts and circumstances which would together constitute a reasonable material to enable the Authority to draw an inference that the activities of the Car were nothing but hinting at only one possibility, the possibility of enabling and encouraging the other vehicle to continue to commit forest offence. These necessary facts and circumstances are conspicuous by their absence on record. Therefore, it is not possible for us to accept the case of the Forest Department

that ICON Car was also used for committing or abetting the commission of forest offence.

28. In the present case, whatever action the Forest Officers have taken in respect of ICON Car is only on the basis of what the Forest Officers suspected the Car to have done or what the Car was likely to do and not what it had reasonably done in the present case. For seizure under Section 52 and thereafter for confiscation under Section 61-A, it ought to have established that the Forest Officer has reason to believe that the offence has been committed or is being committed.

The law is well settled and it lets us know that any likelihood of the commission of an offence can not take the place of or be equated with the term 'reason to believe that an offence has been committed'. Subjective satisfaction of the Authority regarding his reasonable belief about the commission of the offence is *sine-qua-non* for the order of confiscation. As stated earlier, so far as concerned the confiscation of the 52 cut sized logs which were found in the Marshall Jeep of the petitioner no. 1, passing through Morna Bridge without valid transit pass, in our opinion, no error has been committed by the learned Authorised officer.

29. Therefore, in our opinion, confiscation of the ICON Car, in the backdrop of the present facts and circumstances, does not appear to be legal and proper. Though both the Courts below have rightly reached to the conclusion for confiscation of Marshall Jeep bearing No. MH-30/AF-294 as it was carrying forest produce i.e. 52 teak wood logs without transit pass, however, as regards, confiscation of ICON Car bearing No. MH-26/M-786, their conclusion does not appeal to the reason.

30. Before conclusion, we feel it apposite to record here that the forests have their own importance and the importance has already been acknowledged not only in the ancient past but also in the modern times. Realizing this importance, the British enacted the Forest Act, 1927. The value of forest has been more realized today than it was before. The destruction of forest and natural resources had their deleterious effect on the mankind. To reduce them, the concepts like 'sustainable development', 'water conservation', 'carbon capture', 'polluters pay', 'reduction carbon footprints', 'conservation of bio-reserves' and so on have been evolved now. They would even stress the fact as to how valuable is our green umbrella. This means every tree, every plant, everything animate or inanimate present in

the forest has the protection of law including that of the constitution. This would call for a sensitive approach while dealing with cases involving forest offence and this is what we have done here.

31. The Hon'ble Supreme Court in order to express need to protect and preserve the national wealth and to maintain ecological balance, in the case of **Mohd. Asif Vs. State of Maharashtra, 2009 AIR SC 624**, has observed as under :

“The legislature has inserted the provision of confiscation of vehicle as well as the forest produce with a laudable object. Forest is a national wealth which is required to be preserved. In most of the cases, the State is the owner of the forest and forest produce. Depletion of forest would lead to ecological imbalance. It is now well settled that the State is enjoying its duty to preserve the forest so as to maintain ecological balance and, thus, with a view to achieve the said object, forest must be given due protection. The provisions for confiscation have been made as a deterrent object so that felling of trees and deforestation would not made”.

32. In conclusion, we hold that the findings as regards confiscation of seized 52 cut sized teak wood logs and Marshall Jeep

bearing No. MH-30/AF-294 recorded by the learned Authorized Officer and confirmed by the appellate Authority are legal, proper and correct. Therefore, the impugned order dated 08.03.2016 passed by the Additional Sessions Judge, Akola, in Criminal Appeal No.29/2011, is maintained to the extent of confiscation of Marshall Jeep bearing No. MH-30/AF-294 and the forest produce i.e. 52 teak wood logs. In so far as confiscation of ICON Car bearing No. MH-26/M-786 is concerned, it is quashed and set aside. Resultantly, the petition is partly allowed. Respondent nos. 1 and 2 shall release the ICON Car bearing no. MH-26/M-786 to the petitioner no.1 forthwith.

Criminal Writ Petition is disposed of accordingly. Rule is made absolute in the above terms.

JUDGE

JUDGE

Andurkar..