IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE HIMANSHU JOSHI

ON THE 2nd OF NOVEMBER, 2026

MISC. CRIMINAL CASE No. 60275 of 2021

CNR No.: MPHC010553842021

THE STATE OF MADHYA PRADESH

Versus

TAPAS BASAK ALIAS RONI AND OTHERS

Appearance:

Shri Alok Agnihotri - GA for the applicant-State.
Shri Eshaan Datt - Advocate for respondent no.3.
Shri Shiv Kumar Kashyap - Advocate for the respondents no.4 to 12.
Shri Sankalp Kochar - Advocate for respondent no.13.
Shri Vikram Singh - Advocate for the respondent/Intervenor.

ORDER

The present petition has been filed by the applicant under Section 378(3)/under Section 378(1) of the Code of Criminal Procedure, seeking leave to appeal against the judgment dated 27.11.2021 passed by the First Additional Sessions Judge, Sagar District Sagar (M.P.) in Criminal Case Nos.33/2021, 35/2021, 38/2021 39/2021, 40/2021, 41/2021, 43/2021, 45/2021 and 48/2021 whereby most of accused persons have been acquitted of the offence punishable under Sections 9, 39, 44, 48, 48(A), 49, 49 (B) & 52 read with Section 51 (1) and Section 51 (1-A) of Wild Life Protection (Amendment 2003) Act, 1972 while the sentence of respondent nos.10 and 12 were reduced from 7 years to 4 years.

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2. The prosecution case in brief is that on 05.05.2017, preliminary offences vide P.O.R.No.28060/02 was registered by the Regional Tiger Strike Force, Sagar concerning the illegal possession, transportation and smuggling of protected wildlife species, particularly red-crowned roof turtles and pangolin. The respondent No.4, Azad was apprehended by the Forest Authorities and on the basis of information furnished by him, pangolin scales weighing approximately 300 grams were recovered from the residence of Nandalal. During investigation, several other accused persons were apprehended and their statements were recorded by the authorized Forest Officers under Section 50 sub-clause 8 and 9 of the Act. The investigation *prima facie* revealed an organized network allegedly involved in the illegal procurement, trade, and transportation of protected species, including turtles, and certain regulated spices, with the intention of smuggling and exporting the same outside India. The learned Chief Judicial Magistrate, Sagar, vide judgment dated 19.07.2021 convicted the accused persons, however, in the appeals preferred by them, the appellate court, the learned appellate court by the impugned common judgement dated 27.11.2021 acquitted most of the accused from the charges of offenses and reduced the sentence of respondent number 10 and 11.

3. Learned counsel for the petitioner submits that the impugned judgment suffers from perversity and misappreciation of evidence. The Appellate Court failed to appreciate the statement recorded under

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Section 50 sub-clause 8 and 9 of the Act, the recoveries and the circumstances indicating the interconnection and respective roles of the accused in the illegal wildlife trade. It is contended by the counsel that the trial Court had rightly appreciated the evidence and Appellate Court reversed the conviction on the basis of minor discrepancies and technical irregularities. It is submitted that the statement recorded by the Authorized Forest Officer are not rendered inadmissible under Section 25 and 26 of the Evidence Act 1872 merely because they were made before such officers who are not Police Officers within the meaning of those provisions. It is further submitted that Appellate Court failed to properly appreciating the evidential evidentiary value of this statement and the material connecting the accused with the offences.

4. Learned counsel for the respondents opposed the application and supported the impugned judgment submitting that the Appellate Court has duly considered the evidence and recorded finding of acquittal on account of deficiencies in the prosecution case. It is submitted that no perversity or illegality warranting interference has been demonstrated and the presumption of innocence extends strengthened by the acquittals.

5. Learned counsel for the CBI submits that pursuant to notification issued by the State Government and the Government of India under the Delhi Special Police Establishment Act 1946, investigation concerning the same occurrence was entrusted to the CBI which re-registered the case as RC-2202023E0019 on 21.07.2023. The

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CBI is conducting further investigation and its participation is necessary for placing the subsequent developments and relevant material before this Court.

6. Heard the submissions advanced on behalf of the learned counsel for the parties and perused the material available on record.

7. The question of review of sentence shall be examined at the stage of final adjudication, subject to its maintainability under the applicable statutory provisions. The observations made herein shall not prejudice or influence the final decision on merits.

8. So far as I.A. No. 14328/2025, filed by the CBI, EO-II, New Delhi, seeking impleadment as a necessary and proper party, is concerned, it is submitted that the investigation in respect of POR No. 28060/02 was subsequently entrusted to the CBI pursuant to a notification issued under the Delhi Special Police Establishment Act, 1946. Pursuant thereto, the CBI registered the case as RC-220/2023-E-0019 on 21.07.2023 and is presently conducting further investigation.

9. Since the investigation and consequential prosecution arising out of the same occurrence are now being undertaken by the CBI, its participation in the present proceedings would assist this Court in appreciating the subsequent developments and relevant material on record.

10. Accordingly, I.A. No. 14328/2025 is allowed. The CBI, New Delhi, is permitted to be impleaded as an intervener in the present

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proceedings.

11. Insofar as I.A. No. 26985/2025, filed by the CBI, seeking transmission of the original documents and records pertaining to POR No. 28060/02 from the Court of the Chief Judicial Magistrate, Sagar, to the Court of the Chief Judicial Magistrate, Bhopal, is concerned, it is submitted that further investigation is being conducted by the CBI and proceedings concerning the absconding accused are pending before the competent Court at Bhopal. The original records submitted by the Forest Department before the Court at Sagar are stated to be necessary for the effective continuation of the proceedings.

12. Having regard to the subsequent entrustment of the investigation to the CBI and the pendency of proceedings arising out of the same occurrence before the competent Court at Bhopal, transmission of the original records would facilitate effective adjudication and ensure the availability of relevant material before the concerned Court. Accordingly, I.A. No. 26985/2025 is allowed.

13. Upon completion of the proceedings before this Court, the Registry shall take necessary steps to transmit the original records and documents pertaining to POR No. 28060/02, presently available before the competent Court at Sagar, to the Court of the Chief Judicial Magistrate, Bhopal. Before such transmission, requisite certified copies shall be retained, and proper acknowledgement of the transfer and receipt of the original records shall be obtained to ensure their safe

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custody.

14. Consequently, the application for grant of leave to appeal stand allowed, IA Nos.14328/2025 and IA No.26985/2025 also stand allowed in the aforesaid terms.

15. Office is directed to register this M.Cr.C. into Criminal Appeal and list the same before appropriate Bench as per roster in the week commencing from 21.12.2026

16. Accordingly, the M.Cr.C. stands disposed of.

(HIMANSHU JOSHI)
JUDGE

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