

News

Gujarat High Court quashes case against journalist booked for disturbing lion near Gir



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Gir National Park

The Gujarat High Court recently quashed proceedings under Wild Life (Protection) Act against a television journalist, who was accused of disturbing a lion near the Gir National Park and Sanctuary in 2009 [Manish Bhupendrabhai Panwala v State of Gujarat & Anr]

Manish Bhupendrabhai Panwala, a journalist then associated with NDTV, and two members of an NGO, had allegedly flashed lights from a Scorpio car on the animal while it was feeding on its prey.

Justice JC Doshi opined that the act attributed to Panwala does not fall within the definition of 'hunting' under Section 2(16)(b) of the Wild Life (Protection) Act.

"The definition of "hunting" contemplates acts such as capturing, killing, poisoning, snaring, or trapping of a wild animal, or attempts thereof, or actions that cause physical harm or destruction. Merely disturbing a lion, does not meet the threshold to constitute an offence of "hunting" under the Act," the Court held. Justice JC Doshi According to the Forest department record, its officials were on a lion counting duty on November 5 in 2009 when a vehicle and some people were seen at the Madhupur Road. Panwala and two others were inside a Scorpio car and flashing the headlights at a lion.

They were also taking photographs of the lion. Subsequently, the officials arrested the trio and also seized their cameras and vehicle. The accused were later released on bail. The counsel representing Panwala argued that even if the allegations were taken at their face value and accepted in their entirety, the ingredients of the alleged offences invoked against the accused were not satisfied. It was also argued that trial court could not have taken cognizance of the matter on the basis of a chargesheet. The prosecution could not dispute the legal position. Considering the law and arguments made, the Court said that though the conduct attributed to Panwala was unwise or imprudent, it did not satisfy the statutory prerequisites to constitute any cognizable wildlife offence under the Act

Further, the Court also ruled that the prosecution was vitiated on account of jurisdictional infirmity. It explained that cognizance taken by trial court in the matter was legally unsustainable as the proceedings were initiated on the basis of a police report and not a statutory complaint of a designated officer. "Section 55 of the Wildlife (Protection) Act, 1972, imposes a statutory bar on any Court taking cognizance of an offence under the Act except upon a complaint filed by the Director of Wildlife Preservation, the Chief Wildlife Warden, or any officer duly authorised in this behalf by the Central or State Government, or by a private person who has given a mandatory 60 days' notice in the prescribed manner.

In the instant case, it is an admitted position that the proceedings have been initiated solely on the basis of a police-style Forest Offence Report, and not by way of a complaint as required under Section 55," the Court said. However, the Court also stated that it cannot remain oblivious to the fact that Panwala's conduct reveals "a disquieting insensitivity" towards the natural habitat of a protected species. "As admitted, the petitioners disturbed a lion while it was feeding upon its prey during the night hours by flashing lights from a vehicle, thereby intruding upon its habitat and causing disruption. Though not constituting "hunting" as defined under Section 2(16)(b) of the Act, such actions can only be described as reckless and antagonistic to wildlife conservation ethics," it added.

In this regard, the Court recorded that Panwala had voluntarily donated ₹1 lakh to the Gujarat State Lion Conservation Society at Junagadh as a gesture of contrition and support for

wildlife preservation. While this cannot retrospectively "legalize an otherwise flawed prosecution", it was certainly indicative of a corrective and reformatory attitude deserving of due notice, the judge opined. Since the proceedings were vitiated by legal infirmities, the Court quashed the Forest Office First Report and consequential proceedings. However, it clarified that an authorized officer can still initiate appropriate proceedings in the case on the basis of material collected during the investigation in accordance with the law. Advocate Aditya Pandya represented the petitioner.

Public Prosecutor Hardik Dave with Additional Public Prosecutor Chintan Dave appeared for the State.

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