

CHAPTER 19

Forest and Wildlife Protection

1. Introduction

- 1.1. “Forest” and wildlife protection is the paramount task of forest officials. To protect forests and wildlife, prevent offences being committed and to investigate and prosecute in the offences committed, Forest officers have been empowered by Wild Life (Protection) Act, 1972, Rajasthan Forest Act 1953, and Forest Conservation Act 1980. Effective implementation by using various provisions of the Act, sets the tone of forest administration and safety of forests and wildlife of the state.
- 1.2. For Wildlife Protection, the Wildlife (Protection) Act 1972 and the Wildlife (Protection) (Rajasthan) Rules, 1977 are to be applied as the same are more stringent and the quantum of punishment provided is also more.

2. Procedure

- 2.1. Procedure to be followed in wildlife offence cases is basically the same as in case of Forest Offence case. Salient features of the procedure to be followed are as under.
 - 2.1.1. Enquiry of a forest offence is made by an officer not below the rank of a Range Officer¹, (Forester or Nakerdar)².
 - 2.1.2. Any forest officer or a private person who detects any forest offence under any of the Provisions of the Act shall report it to the Naka in-charge and get the case registered in the prescribed FIR Format. If the Forester or Asstt. Forester himself detects the offence; the case should be registered accordingly. Report from private individual can

1. Notification No. F34(44)Rev/A/53/Part II dated 26-12-1961.

2. Rajasthan Forest Manual Vol II pg 244 pt no.(1) of Rules under Section 76(d).

be verbal or on a plain paper. This report shall become live document of the case.

- 2.1.3. The First Information Report register shall be printed in the prescribed Format. All Cases shall bear serial number of the Naka, the number of the FIR Book, the serial number of the FIR and the year in which the case is registered.
- 2.1.4. The original copy shall be permanent record of the Naka and other three copies shall be submitted as follows:-
 - 2.1.4.1. One to the Divisional Forest Officer / Deputy Conservator of Forests or other gazetted officer nominated by the DFO/DCF.
 - 2.1.4.2. One to the Judicial Magistrate of the concerned area.
 - 2.1.4.3. One to the complainant, if any.
- 2.1.5. A Case Diary shall also be maintained by the Investigating Officer (IO) in the prescribed format. Serial no. of each case submitted shall be noted on the reverse of the original copy of the FIR which will remain at Naka.
- 2.1.6. On the conclusion of the case, the particulars contained in the complaint shall also be briefly mentioned on the reverse of the original copy.
- 2.1.7. Unless the investigation of a case is transferred, no FIR should be cancelled without the order of DFO/DCF.
- 2.1.8. Once an enquiry has been completed, no further enquiry shall be made by any officer except with the previous sanction of the Deputy Conservator of Forests and such further enquiry shall not be entrusted to an officer below the rank of a Range Officer. Provided further that where the alleged offence was committed three months or more before the date of the report, such enquiry will be conducted by the Deputy Conservator of Forests himself or an officer of the rank of Asst Conservator of Forests.
- 2.1.9. A Forest Guard or any other forest officer not empowered to investigate the offence, on discovering the offence, must within 48 hours of such discovery, report it to the competent officer to hold enquiry into the case.

- 2.1.10. The investigating officer will as speedily as possible, and furthest, if he is a Range Officer, within one month of the date of report, and if he is subordinate to him, within 15 days of that date, hold an enquiry into the case at the place where the offence was committed or detected or at a convenient place adjacent thereto and, if necessary, may make investigations at other places. Provided that the accused is not required to attend. His enquiry should not usually last longer than 3 days but it will remain within the jurisdiction of the Deputy Conservator of Forests to allow an extension of this period on good cause being shown for the same.
- 2.1.11. Every officer making an enquiry under these Rules shall day by day enter his proceedings in a diary book setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of accused as to whether he is willing to compound or not, and he must obtain the signature of the accused to this statement. Ordinarily there should be no need for any person to be detained after the investigation is complete.
- 2.1.12. No person shall ordinarily be arrested under the powers granted by Section 64 of the forest Act unless he has no fixed abode or likely to abscond. Any person who has been arrested must be brought before a Magistrate without unnecessary delay.
- 2.1.13. If the enquiry officer has the powers to compound, he may do so after fixing the amount of compensation, but he must forward his proceedings to the Deputy Conservator of Forests.
- 2.1.14. If the enquiry officer has no powers to compound or the accused refuses to compound or refuses to appear, the case may be forwarded to the Deputy Conservator of Forests for orders. On receipt of the proceedings the Deputy Conservator of Forests will pass such orders as are necessary.

3. Investigation:

- 3.1. Investigation is a systematic, minute and thorough attempt to learn

the fact about something, complex or hidden. It is conducted s 2(h) of CrPC to collect evidence.

- 3.2. The Naka incharge himself is empowered to investigate the offences registered under the said acts. He shall also be empowered to depute a subordinate to proceed to the spot to investigate the facts & circumstances of the case and if necessary to take measures for discovery & arrests of the accused.
- 3.3. The Hon'ble SC in a landmark judgment³ has held that “the police officers are not excluded from investigating the offences under the Act” the Court has further held that SS 50(1) starts with a non obstante clause 'notwithstanding' anything contained in any other law for the time being in force which would include the CrPC and officers mentioned therein are also entitled to inspect search or seize the articles mentioned in cl (a), (b) and (c). this would mean that police officer not below the rank of sub-inspector is also empowered for the purpose of prevention and detection of offence under the Act. Just as the police officers draw powers of investigation from CrPC, the Forest Officers can draw such powers from the S 72 of the Indian Forest Act, 1927.
- 3.4. The Hon'ble SC also held⁴ that the power to issue a search warrant by the officer authorized under the Wild Life (Protection) Act, 1972 is similar to that conferred upon Magistrate of First Class and courts under sections 93 to 98 of CrPC.
- 3.5. The forest officer in-charge of the area shall also render assistance whenever required to all officers of the criminal investigation, working within his jurisdiction.

4. Site investigation and Post mortem in animal mortality

- 4.1. The site investigation and the postmortem are most important aspects while dealing with case of death of wild animals or seizure of any animal article. There is no comprehensive protocol or guidelines with regard to postmortem or site investigation in the case of animal deaths. The enforcement agencies may follow certain guiding principles, which have evolved over a period of time and elaborated as below:

3. Moti lal v/s CBI and others, SC, 2002 CRI L.J.2060.

4. Ibid.

4.1.1. General

- 4.1.1.1. The information of any animal death or seizure of animal article etc. must be intimated to immediate higher level and ultimately to Chief Wild Life Warden without any delay.
- 4.1.1.2. The site situation including animal body or article etc. should not be disturbed up to certain peripheral distance e.g. 5-6 meters till the authorized investigation officer reaches the site.
- 4.1.1.3. A detailed search should be made by the investigating officer alongwith the field staff. All signs of vehicles, human presence, traps, noose, clutch wire, empty cartridges and other tool etc must be recorded.
- 4.1.1.4. The photographs/video of the site and animal can definitely help the investigation by recording certain evidences.
- 4.1.1.5. A rough sketch of the investigation site must be prepared showing streams, roads any other fixed objects or landmark such as boundary pillar or building etc.

4.1.2. Investigation of carcass of wild animal:

- 4.1.2.1. Important measurements such as animal body length (nose to tail), tusk length, circumference of elephant/tiger foot etc. along with presence or absence of important body parts such a claws, elephant/tiger tail hair, antlers, horns should be recorded.
- 4.1.2.2. Signs of infighting, blood stains, urine, scat, dung, droppings etc. should be recorded.
- 4.1.2.3. The body of animal should be investigated thoroughly for any sign of injury, swallowing, bone fracture etc.
- 4.1.2.4. Size and measurement of any kind of injury sustained by animal due to traps, electrocution (burns sign or skin and hairs) or any other cause should be recorded.

- 4.1.2.5. The area must be searched thoroughly with regard to presence of any 'animal kill', because such kills are many times used by poachers for poisoning.

4.1.3. *Crime Scene search*

- 4.1.3.1. If a wild life crime has been committed, an important starting point to the investigation is searching for evidence at the scene of the crime. The following steps are recommended.
- 4.1.3.1.1. Isolate scene with rope or tape.
 - 4.1.3.1.2. Keep written notes or audio recordings.
 - 4.1.3.1.3. Take photos (and video if possible)
 - 4.1.3.1.4. Sketch area and positioning.
 - 4.1.3.1.5. Search for evidence.
 - 4.1.3.1.6. Take footprints of animals and humans in the area
 - 4.1.3.1.7. Collect evidence.
 - 4.1.3.1.8. Search for wounds or marks on the animal.

4.2. *Collection of evidence from crime scene*

- 4.2.1.1. Collecting evidence from the scene of a crime has to be done in a scientific and precise manner in order for the evidence to have some use in the final investigation. The following evidence is commonly available at a poaching site.
- 4.2.1.2. **Blood.** Collect blood from animal's body using a dropper into a test tube. If blood is found on soil, collect blood with soil in a test tube and seal it. Collect soil without blood from the scene.
- 4.2.1.3. **Footprint/pugmark** Photograph print before taking impression. Put glass on the print. Sketch from above. Your eyes must be at 90° to the print in order to avoid parallax error. Fill print with Plaster of Paris. Allow it to dry. Collect the cast

- 4.2.1.4. **Hair** Use forceps to collect hair for evidence. Do not bend hair while collecting. Collect hair from the root if possible. Place in a plastic bag (not paper envelope). Seal and label it.
- 4.2.1.5. **Firearms** Use gloves to pick up the firearms. Do not insert any object into the barrel of the gun. Note position of lock, hammer and catch (if present on the firearm) and do not change it. Note if gun has been fired or not
- 4.2.1.6. **Fingerprint** Photograph fingerprints before lifting them. If fingerprint tape is available use it to collect print
- 4.2.1.7. **Bullet** Take out bullet from animal's body without scratching it. Place it in a paper bag, seal it and label it. Cartridge cases found outside should also be collected in paper bags, sealed and labeled. In case bullet is embedded in hard object (e.g. tree), cut around the bullet and place the whole block in a paper bag. Seal it and label it.
- 4.2.1.8. **Photograph** A photograph is useful evidence. It should bear date, time, place of incident, brief description, name & signature of photographer. Always place a case no. or some other identifier in each picture alongwith ruler or something that refers size.
- 4.2.1.9. **Meat** Sample as per WII protocol.
- 4.2.1.10. **Bones** as such.
- 4.2.1.11. **Skin** - Air dry it to remove any moisture before packing.
- 4.3. **Things that can go wrong**
 - 4.3.1. Failure to recognize what is evidence.
 - 4.3.2. Too many bystanders improper protection of the crime scene.
 - 4.3.3. Too many officers contamination of evidence.
 - 4.3.4. Using hit or miss type search techniques.
 - 4.3.5. Lack of organisation and communication in the search.
 - 4.3.6. Failure to search outside the immediate crime scene.
 - 4.3.7. Failure to search area for witnesses.
 - 4.3.8. Failure to take proper notes, photograph or video etc.

- 4.3.9. Contaminating the evidence by handling.
- 4.3.10. Placing wet/stained items in plastic bag before drying.
- 4.3.11. Packing more than one item in the same package.
- 4.3.12. Bad Collection of fingerprints.
- 4.3.13. Jumping to conclusions and making the scene fit theories.
- 4.3.14. Failure to restrict information.

4.4. ***Collection and Preservation of Biological Samples for Genetic (DNA) Analysis:***

- 4.4.1. Samples such as faecal matter, bone, hair follicles and skin tissues can be collected for Genetic (DNA) Analysis.
- 4.4.2. Proper hygiene must be maintained while collecting the samples using disposable gloves to avoid contamination, whereas blood samples should be collected using disposable syringe.
- 4.4.3. Dry samples such as skin, hair, bone and scats can be collected in clean and dry plastic cover and stored in cool dry place or in deep freezer. Fresh tissue can be preserved in normal saline (0.85% solution of sodium chloride) or 80% or absolute ethanol and these can be stored temporarily at 4°C for one or two days and -20°C to -70°C for storing more than two days.
- 4.4.4. Further, the detailed instructions for collection, preservation and transportation of biological samples such as Blood, Blood Quills, Hair and hard tissues, Egg Shell Membrane, Scat/Feces for genetic (DNA) analysis issued by *Laboratory for Conservation of Endangered Species (LaCONES), Center for Cellular and Molecular Biology (CCMB), Hyderabad* should be followed.

4.5. ***Postmortem of Wild animals:***

- 4.5.1. Before performing the postmortem on carcass of wild animal, it is very important to do the investigation of site and animal body.
- 4.5.2. In most of the cases there is always a time lag between animal death and its detection; therefore on account of putrefication and degeneration of body of the wild animal,

it becomes very difficult to diagnose cause of death through postmortem.

- 4.5.3. The postmortem on carcass of wild animal must be done by a recognized Veterinarian (Medical Board in case of Schedule - I and part II of Schedule - II animal)⁵ and the report must include details regarding History of death, External and internal examination (body cavities, respiratory system, Hepatic system, circulatory system, digestive system, urogenital organs, head etc), summary of major findings, specimens collected for laboratory diagnosis, provisional diagnosis and remarks etc.
- 4.5.4. Member Secretary, National Tiger Conservation Authority has issued certain instructions⁶ regarding record of postmortem examination, collection of laboratory specimen and diagnosed diseases from material, which may be followed while conducting a postmortem of wild animals.

4.6. **Conducting a criminal investigation**

- 4.6.1. Once the evidence on the scene of the crime is collected, the next step is to conduct a criminal investigation into the crime. For simplicity the investigation is divided into five phases.
- 4.6.1.1. **Intelligence gathering** (i) Try and identify the suspects (ii) Document and validate the intelligence information gathered. (iii) Analyse the intelligence reports
- 4.6.1.2. **Decision to conduct the investigation** The final decision to conduct investigation is taken after the background intelligence has been analysed. At this stage, one can decide to close the case if background information so indicates.
- 4.6.1.3. **Planning the investigation** Planning to investigate involves assessing the availability of manpower, identifying the officer who is to supervise investigation, identification of the team

5. Letter No. F.3(Gha)Circular/WL/CWLW/92-93/5803 dated. 24.9.02

6. Letter No. 1-9/93-PT dated 21.07.2007

leader, available technical support and equipment and arrangement for storage of evidence collected.

4.6.1.4. Implementing the plan Always remember to Stay flexible. Continue to update your intelligence. Continue to identify your defendants, suspects and charges. Gather, label, analyse, evaluate and secure your evidence. If needed, obtain and execute arrest warrants, summons, and search warrants. Conduct interrogations; take confession in presence of two independent witnesses. Produce the arrested in the court within 24 hours. Prepare and submit your evidence and brief the lawyer

4.6.1.5. Evaluate your results Ask yourself what finally was accomplished. Evaluated if investigation has been a deterrent to further illegal activities and if, due to the case, more update and accurate intelligence is available.

4.7. Interrogation techniques A suspect may have to be interrogated before and or after the crime. In many cases interrogation of suspects may help prevent the crime. In case the crime has already been committed, interrogation becomes an investigative tool to help bring the criminals to justice. The following points may be followed or adopted during interrogation.

- 4.7.1. Questioning should usually be done by more than one person.
- 4.7.2. A brief check on the suspect's background must be made before interrogation.
- 4.7.3. Make use of available investigation reports, including from other enforcement agencies, to brief interrogator before the session. The interrogator must know more about the case, or pretend to know more, than the suspect.
- 4.7.4. Cross-question suspect on details of the crime to detect contraindications.
- 4.7.5. Ask questions, even if they are not relevant to the interrogations, which allow you to be one up on the

- suspect. This could generate a fear psychosis in the suspect's mind.
- 4.7.6. The suspect should be made aware of the conviction laws and the rigorous penalties he has to face if proven guilty by a court, and the possible repercussion to his family.
 - 4.7.7. When appropriate, use the blow-hot blow-cold technique, whereby one investigating officer pretends to be tough and merciless while the other pretends to be more understanding. In many cases the suspect succumbs to this tactic.
 - 4.7.8. If two persons are caught they should first be interrogated separately and then, if necessary, together.
 - 4.7.9. If wildlife products are seized, efforts should be made to find out where the goods originated, names of accomplices and names of ultimate buyers. Leads should be followed by immediately and swiftly to recover more articles and arrest accomplices.
 - 4.7.10. In poaching cases or attempted poaching, names of other gang members, financiers, and modus operandi of poaching, ultimate buyer of poaching article are vital to obtain. Try to obtain information that can be used to prevent further poaching in the area, not just investigate the current case.
 - 4.7.11. Try to use independent witnesses during questioning. If not possible they must be present during recording confessions. Do not use your own staff as witnesses.
 - 4.7.12. Confessions made in an enforcement office may not be admitted by a court, but are still important for the purpose of investigation. However, section 50, sub-section (8) and (9) of WPA are relevant in case of wildlife offences.

5. The powers of Investigating Officers

- 5.1. The state Government has from time to time vested the powers under various sections particularly of Chapter IX and X of the Rajasthan Forest Act, 1953 to different levels of officers. Some of these are as under:-

5.1.1. Under Section 2 of Rajasthan Forest Act, 1953⁷, the Chief Research Officer, CAZRI, the Silviculturist, the senior Research Assistants (Field), the Forest Guards and Chowkidars whether in permanent or temporary employment whose charges include the areas which have been declared as Reserved or Protected forest have been appointed to do all acts and exercise all powers under sections 26(2)(a), 34, 44, 54, 57(b), 61, 64, 70, 79, and 83. Later⁸ the State Government also appointed the Asst Silviculturist, Research Assistant (Field), Senior Scientific Assistants, Junior Scientific Assistants of CAZRI also to do all acts and exercise all powers under sections 26(2)(a), 34, 44, 54, 57(b), 61, 64, 70, 79, and 83.

5.1.2. The State Government has appointed and authorized⁹ the officers mentioned in column No 2 of the table as forest officers and to discharge the functions and exercise the powers of Forest Officers within their respective territorial jurisdictions to the extent specified in column Nos 3 and 4 of the table under the Rajasthan Forest Act, 1953.

S No	Rank of person appointed as Forest Officer for the purpose of the section of the Act indicated under column 3	Sections / sub-sections of the Act under which powers are to be exercised	Extent to which powers can be exercised
1	2	3	4
1	All officers upto the rank of Deputy Conservator of Forests / Dy Chief Wild Life Wardens / field directors, Project tiger	21	Full Powers

7. Notification no. D4815/F.11(120)Rev/A/59 dated 23-11-1960 published in Raj Gazette part IV© dated 2.2.61.P.600.

8. Notification no. F.7(343)Rev/A/61 dated 16-5-1962

9. Notification No F2(20) Rev-8.79 dated 6-5-1983 published in Raj Gaz Part IV (c) dated 26-5-1983

2	Chief Conservator of Forests / Chief Wild Life Warden / All Conservators of Forests, Director Projects / Director, Desert national park	25	Full Powers
3	Chief Conservator of Forests / Chief Wild Life Warden / All Conservators of Forests, Director Projects / Director, Desert national park, Addl Chief Wild Life Warden / Deputy Conservator of Forests / Dy Chief Wild Life Warden / Field Directors, Project Tiger	26(2)(a)	Full Powers
4	Chief Conservator of Forests / Chief Wild Life Warden / All Conservators of Forests, Director Projects / Director, Desert national park	34	Full Powers
5	All Forest Officers of and above the rank of Forest Guard	45(2)	Full Powers
6(a)	Deputy Conservator of Forests / Dy Chief Wild Life Warden / Soil Conservation Officer / Project/Field director, Project Tiger	46	Where the value of Forest Produce is Rs 200/- or more
6(b)	Forest Rangers / Wild Life Rangers/ Game Rangers / Soil Conservation Assistant Project	46	In all cases where the value of forest produce is less than Rs 200/-
7	Deputy Conservator of Forests / Dy Chief Wild Life Warden / Soil Conservation Officer / Project / Field director, Project Tiger	Sub sections (1) & (2) of section 47	Full Powers

8	Deputy Conservator of Forests / Dy Chief Wild Life Warden / Soil Conservation Officer /Project/Field director, Project Tiger	48	Full Powers
9	All Forest Officers of and above the rank of Assistant Forester	52	Full Powers
10	<p>(a) Forest Rangers/Dy Rangers / Wild Life Rangers/ Game Rangers / Soil Conservation Assistant Project Incharge of the Range</p> <p>(b) Asst Conservator of Forests / Asstt. Field director, Tiger Project / Wild Life Wardens</p> <p>(c) Deputy Conservator of Forests / Dy Chief Wild Life Warden / Field directors, Tiger Oroject</p>	53	<p>Where the property seized is in head loads, cycle loads and animal loads.</p> <p>Where the property seized is in bullock carts and other animal; driven vehicles.</p> <p>Where the property seized is in mechanically driven vehicles</p>
11	All Forest Officers of and above the rank of Dy. Rangers	56	Full Powers
12	All Forest Officers of and above the rank of Foresters	57	Full Powers
13	All Forest Officers of and above the rank of Assistant Forester	64	Full powers

14	All Forest Officers including work charge staff under the Forest Department	66	Full Powers
15	All Forest Officers including work charge staff under the Forest Department / Collectors, Additional Collectors, Asst collectors, Sub-Divisional Officers, Tehsildars, Inspectors of Land Records and Patwaris of Revenue Department / All officers incharge of check posts under Commercial Taxes Depatt., or Octroi Posts under Municipalities.	70	Full Powers
16	All Forest Officers of and above the rank of Foresters	83(1)	Full Powers
17	All Forest Officers of and above the rank of Dy. Rangers	83(2)	Full Powers

5.2. The State Government has invested¹⁰ all Forest Officers not below the rank of Ranger with all the powers of Section 72 of the Rajasthan Forest Act, 1953 which are as under:-

5.2.1. Power to enter upon any land and to survey, demarcate and make a map of the same;

5.2.2. The powers of a Civil Court to compel the attendance of witnesses and the production of documents and material objects; and

5.2.3. To hold an enquiry into forest offence.

5.3. The State Government¹¹ has also appointed the following officers as Forest Officers under the Rajasthan Forest Act, 1953 and invested them with such powers as are specified against them hereunder:-

10. Notification No D4965/F34(44) Rev/53 dated 26-10-1956 published in Raj Gaz Part IV (C) dated 13-12-1956 p. 661.

11. Notification No F.34(44) Rev/A/53/Part II dated 26-12-1961 published in Raj Gaz Part IV (C) dated 25-1-1962

S No	Class of Officer	Section of the Act	Brief description of powers and functions
1	2	3	4
1	Chief Conservator of Forests, Conservator of Forests, Deputy Conservator of Forests and District Forest officers	17	Powers to present appeals from orders passed under section 11, 12, 15 or 16 of the Act.
2	Conservator of Forests, Deputy Conservator of Forests, Asst Conservator of Forests, District Forest officers and Sub Divisional Forest Officer.	21 & 31	Duty of publication of translation of the Notification for reserved and Protected Forests
3	Chief Conservator of Forests and Conservator of Forests	25	Power to stop ways and water courses in Reserve Forest. This power is exercisable with the previous sanction of Commissioner of the Division in which the Reserved Forest is situated.

4	Chief Conservator of Forests, Conservator of Forests, Divisional Forest Officer and Sub Divisional Forest Officer.	26(1)(c)	Power to notify the reasons at which fire may be kindled, kept or carried in the reserved Forest
5	Chief Conservator of Forests, Conservator of Forests, Divisional Forest Officer and Sub Divisional Forest Officer.	26(2)	Power to permit prohibited acts in Reserved Forest

5.4. The State Government has also appointed¹² the following officers as Authorised officers under the Wild Life (Protection) Act, 1972 for exercising powers under sections noted against each:-

S No.	Designation of officers	Sections for the purpose of which appointed as authorized officers
1	Chief Conservator of Forests / Addl Chief Conservator of Forests and Conservator of Forests	31, 39(3), 50(6)(a)
2	Conservator of Forests (Wild Life)	9(3), 10(2), 10(3), 11(1)(b), 13, 31, 36(2), 39(3), 43, 44, 45, 50(6)(a)
3	Deputy Chief Wild Life Warden	27(2)(c), 31, 34(1), 50(6)(1)
4	Divisional Forest Officer / Deputy Conservator of Forests	9(3), 10(2), 10(3), 39(2), 39(3), 50(6)(a)
5	Field Directors, Project Tiger	27(2)(c), 31, 34(1), 39(3), 50(6)(1)
6	Astt Conservator of Forests incharge of sanctuaries and Wild Life Wardens.	27(2)(c), 31, 34(1), 39(3), 50(6)(1)
7	Forest Rangers	39(2), 39(3)

12. Notification No. F3(5)(8) Rev VIII/72 dated 18/6/83

5.5. The Chief Wild Life Warden, Conservator of Forests and Field Directors, Deputy Conservator of Forests/Dy Directors/Dy Chief Wild Life Wardens/ Deputy Field Directors / Asst Conservator of Forests/Assistant Director/ Wild Life Wardens /Assistant Field Directors and Research Officers have also been authorized under Sec. 50(8) of the Wild Life (Protection) Act, 1972 to:-

- (a) Issue a search warrant;
- (b) Enforce the attendance of witness;
- (c) To compel the discovery and production of documents and material objects; and
- (d) To receive and record evidence.

5.6. An officer making an investigation shall invariably issue an order in writing in the prescribed form to any person summoned to attend such investigation and shall endorse on the copy of the order retained by the person so summoned the date and his arrival at, and the date and time of his departure from the place to which he is summoned. The duplicate of the order shall be attached to the case diary.

5.7. No avoidable trouble shall be given to any person from whom enquiries are made and no person shall be unnecessarily detained.

5.8. It is the duty of an investigating officer to find out the truth of the matter under investigation. His object shall be to discover the actual facts of the case and to book the offenders.

5.9. When report of a case is recorded, the officer empowered to investigate shall proceed to the scene immediately. The officer who first proceeds to the spot shall, if he is not competent to complete the investigation, take all possible steps to preserve the scene of the crime from disturbance, to record particulars of and secure the presence of potential witnesses, obtain information relating to the case and arrest the culprit.

5.10. All orders in writing made in the case i.e. order to arrest, to search and summon etc. shall be attached to the case diaries, or their absence shall be satisfactorily accounted for.

5.11. The officer in-charge of the case shall maintain a case diary.

6. Search

6.1. The forest officer of the rank not below an Assistant Director of Wild

Life Preservation or the Assistant Conservator of Forests, authorized by the state government in this behalf can issue a search warrant under section 50(8) of the Act in the case of wild life offence.

- 6.2. Under Section 50(1) of the Wild Life (Protection) Act, 1972 the officers authorized can conduct a search without a warrant provided he has reasonable grounds for believing that any person has committed an offence against this Act. This is not a part of detailed investigations, like a search conducted after obtaining a search warrant from an authorized officer under Section 50(8). This type of the search is generally conducted in an urgent condition i.e. at any instant, when any authorized officer comes across a situation of commission of any wild life offence. This power of the search without the warrant is exercised at the time of entry, detention and arrest conducted.
- 6.3. Section 51 of Cr.PC provides that the authorized officer arresting or detaining a person under this act, may search such person and place in safe custody all the articles, other than necessary wearing apparel, found upon him and where any article is seized from the arrested person, a receipt showing the articles taken in the possession by the police officer/authorized officer shall be given to such person.
- 6.4. It was decided by the court¹³ that the presence of the witness is not required while 'searching a person' under section 51 of CrPC. On the contrary, while 'searching a premises' under section 100 of CrPC it is required to have the presence of a person.
- 6.5. The important procedural issue under the section 100 of CrPC, while searching a premise are as follows:
 - 6.5.1. Any person residing in, or being in charge of, such place, shall, on demand of the officer or other person executing the warrant, and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein.
 - 6.5.2. If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in the manner provided by sub-section (2) of Section 47 i.e. the officer can forcibly enter into the premises.
 - 6.5.3. Where any person in or about such place is reasonably

13. State of Bihar vs. Kapil AIR 1969 SC 53

suspected of concealing about his person any article for which search should be made, such person may be searched and a list of all things taken possession of shall be prepared, and a copy thereof shall be delivered to such person. If such person is a woman, the search shall be made by another woman with strict regard to decency.

- 6.5.4. The officer or other person about to make a search, shall call upon two or more independent and respectable inhabitants of the locality in which the place to be searched is situated or of any other locality if no such inhabitant of the said locality is available or is willing to be a witness to the search, to attend and witness the search and may issue an order in writing to them or any of them to do so.
- 6.5.5. The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses; but no person witnessing a search under this section shall be required to attend the court as a witness of the search unless specially summoned by it.
- 6.5.6. The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witness, shall be delivered to such occupant or person.
- 6.5.7. Any person who, without reasonable cause, refuses or neglects to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under Section 187 of the Indian Penal Code (45 of 1860).

7. Evidence

- 7.1. Evidence is the usual means of providing or disproving a fact under trial or inquiry. It does not include the argument. The evidence can be classified in three categories (i) Oral evidence (ii) Documentary evidence (c) Real evidence
- 7.2. The 'Oral Evidence; is evidence from persons, namely, witnesses.

The 'Documentary Evidence' is evidence from documents i.e. the documents produced for the inspection of the court such as a letter, a sale deed, a seizure memo, an inquiry report etc. The 'Real Evidence' is the material subjects other than the documents produced for the inspection by the court such as weapon, any kind of cloth, any wild animal (dead or alive), animal article, trophy etc.

- 7.3. Oral evidence is to be provided only by that person, who has actually physically perceived something through his sense. Original papers only are admissible as documentary evidence.
- 7.4. According of Section 50(8) of Wild Life (Protection) Act, 1972 any officer not below the rank of Assistant Conservator of Forest, authorized by the State Government, has the following powers regarding receiving and recording the Evidence:
 - 7.4.1. To enforce the attendance of witnesses.
 - 7.4.2. To receive and record evidence.
 - 7.4.3. To compel discovery and production of documents.
- 7.5. "Any evidence recorded under clause (d) of sub-section 50 (8) of Wild Life (Protection) Act, 1972 shall be admissible in any subsequent trial before a Magistrate provided that it has been taken in presence of the accused person". The court held¹⁴ that a confessional statement before a Forest Officer is admissible in court under the Evidence Act 1872 and embargo contained in Section 25 and 30 is not applicable as a forest officer is not Police Officer.
- 7.6. In one case the court decided¹⁵ that Section 72 of the Indian Forest Act has got reference to the evidence recorded by a forest officer who has been empowered to hold an inquiry which has to be recorded on oath. Secondly, the word 'evidence' in Sections 72(1)(d) and 72(2) shows quite clearly that what is thereby meant is the statement of a witness and not the statement of a person who is alleged to have committed an offence. A statement made by an accused person before an officer who is not a Magistrate or a Judicial Officer, amounting to a confession, is an extra judicial confession and there being nothing in Section 72(1)(d) and Section 72(2) of the Act which would prevent its use in a subsequent trial of the maker along with other accused persons, the statement would be admissible in evidence against the

14. Dr. Emerico D'Souza Vs. State, 1995 FLT 72 (Bom)

15. State Vs. Bankulal Gokulal Shah, 1955 NUC (Bom) 4492

maker as an extra-judicial confession and against the co-accused implicated under Section 30 of the Evidence Act.

7.7. The court made the following observations¹⁶ with regard to confession and corroboration in the cases related to Forest and Wild Life laws;

7.7.1. Confession before a Forest officer is not open to doubt since embargo contained in Section 25 of the Evidence Act is not applicable since confession has been made before a forest officer, who is not a police officer.

7.7.2. The rule of corroboration is a principle of prudence, which cannot be applied rigidly and it would be pedantic to insist on the rule of corroboration by independent evidence to prove offence relating to forest and wild life. There is no rule of law that no evidence should be relied unless there is corroboration.

7.7.3. There is no legal requirement, whenever a confession is made in writing, that another witness must also attest it. It further observed that one of the circumstances, which ensured confidence in the confessional statement, was recovery of the skull and horns from the place spotted out by the accused persons. The order of acquittal passed by the sessions court was set aside and conviction and sentence passed by the trial Magistrate was restored by the Hon'ble Kerala High Court in the appeal made by the forest range officer.

8. Summons to Witness

8.1. All Forest Officers holding charge of Forest Division in Rajasthan and all Assistant Conservators and Sub-Divisional Forest officers who have passed the Departmental Examination in Forest Law have been invested with the powers defined in this section, to be exercised within the limits of their respective charges and all Range Officers and all Assistants to Range officers who have been empowered under the rules to enquire into forest offences have the power to issue summons for the attendance of witnesses.

9. Diet-money of Witness

9.1. Diet money of witness summoned who appear in case of forest

16. Appeal by Forest Range Officer Vs. Aboobacker and another 1990 F.L.T. 22 Kerala High Court.

offences under enquiry by Forest Officers may be paid by Divisional Forest Officers at the rates in force in the local law courts, or at such lower rates as the Collector of the district may direct.

10. Rules for Conducting Prosecutions

The following are the rules for the guidance of departmental officers in conducting criminal prosecutions:-

- 10.1. The officer ordering the prosecution of any person before a magistrate is responsible for the conduct of that prosecution.
- 10.2. Prosecution may be effected in two ways-
 - 10.2.1. by the appointment of a prosecutor to conduct the case; and
 - 10.2.2. by sending a report to the Magistrate.
- 10.3. A prosecutor should be appointed in difficult cases or very important cases.. In petty cases, a written report is sufficient. This report should explain the facts of the case and the nature of the charge laid, with the names and addresses of the witnesses and the facts each is expected to depose to.
- 10.4. A prosecutor should be duly informed of the facts and of nature of the evidence and names of the witnesses. He need not be a person acquainted with the case of his own knowledge, nor, is there any restriction as to his official rank.
 - 10.4.1. Divisional Officers should, if possible, report to the Regional Chief Conservator of Forests before commencing proceedings in any grave or unusual criminal case.

11. Compounding of Forest/Wildlife Offences

- 11.1. Government of Rajasthan, in exercise of the powers conferred under section 68, read with 76, of Rajasthan Forest Act, 1953 has empowered¹⁷ Forest Officers mentioned in column No 2 of the table below within their respective territorial jurisdiction and accept compensation according to the scale prescribed in column No 4 of the table:-

17. Notification No. F 2(20)Rev.Gr-8/79 dated 26/10/1986.

Sr No	Compounding Authority	Nature of offence	Scale of compensation
1	Forest Range Officers / Wild Life Rangers / Game Rangers	Offences involving transport of Forest Produce by head Loads, animal loads and cycle loads	The amount of compensation for the produce being carried shall be equal to its market value plus amount of penalty to the extent of
2	Astt Conservator of Forests / Wild Life Wardens / Astt Field Directors, Tiger Project	Offences involving transport of forest produce by bullock carts or any other animal driven vehicle.	an equal amount to market value of the produce being carried plus to the extent of the value of medium of transportation in lieu of confiscation of the animal or vehicle, if any, used for the transportation of the produce. In case of compounding amount less than the amount of penalty and value of medium of transportation, the compounding officer shall explain reasons therefor.
3	Divisional Forest Officer / Deputy Conservator of Forests / Dy. Chief Wild Life Warden / Field Directors, Tiger Project.	Offences involving transport of forest produce by mechanically driven vehicles.	

- 11.2. In petty offence cases, if the accused expresses his willingness to have the offence compounded, he shall give a written undertaking in that regard.
- 11.3. If immediately after the offence is detected or at the time of enquiry the accused is willing to pay in advance any amount towards compensation to be fixed under various sections shall be disposed of as per the orders¹⁸ issued from time to time.
- 11.4. The acceptance of any amount as aforesaid shall be without prejudice to any decision that may be taken by the competent authority under the rules in regard to the quantum of compensation or necessity or otherwise to compound the offence.
- 11.5. Any property seized from an accused shall not be released

18. GO No F.7(211)Rev./A/65 and F3(5)(8)/Gr VIII/72 dated 18-6-83.

immediately on receipt of the amount of advanced compensation paid by him. It shall be retained with the forest officer concerned until an order in this behalf is issued by the competent authority.

- 11.6. Every officer competent to compound the offence may refuse to compound an offence in any particular case without assigning any reasons. Where the competent officer refuses to compound an offence the amount that has been received towards advance compensation from the accused shall be arranged to be refunded to him by such officer by passing a suitable order in this behalf.
- 11.7. Any person, aggrieved by an order passed by an officer for compounding, may prefer an appeal, within 15 days from the date of receipt of such order. If the officer passing the order is a Range Officer, Assistant Conservator of Forests shall be the appellate authority and his decision shall be final.
- 11.8. Every accused who agrees to get the offence compounded shall immediately deposit in advance an amount as determined by the forest officer not below the rank of forester, towards the compensation fixed. The remaining amount shall be deposited by the accused within one month.
- 11.9. In case the amount of compensation so fixed is not paid in full within the prescribed period, action to recover the same may be taken as provided under Section 82 of Rajasthan Forest Act, 1953. 11.10. When the accused does not opt for compounding the offence, or the competent authority does not choose to compound the offence, the Divisional Forest Officer shall order for the prosecution.
- 11.11. When an order of prosecution is passed by officer not less than Divisional Forest Officer, a forest officer not below the rank of Range Officer shall file a complaint in the prescribed form before the magistrate having jurisdiction.
- 11.12. The Section 54 of the Wildlife (Protection) Act, 1972 also empowers the State Government to delegate powers of compounding wildlife offences to any officer of the rank not below the rank of a Deputy Conservator of Forests, to accept from any person against whom a reasonable suspicion exists that he has committed an offence against this Act, a payment of a sum of money by way of composition of the offence which such person is suspected to have committed.
- 11.13. The suspected person is discharged on payment of such money and the officer compounding such offence may order the cancellation of

any license or permit granted under this Act to the offender or if he's not empowered to do so, he may approach an officer so empowered for cancellation of such license or permit.

- 11.14. The sum of money to be accepted as composition shall in no case exceed the sum of Rs. 25,000 and no offence for which a minimum period of imprisonment has been prescribed in section 51 shall be compounded.
- 11.15. The Government of Rajasthan, in exercise of the powers conferred by subsection (1) of section 54 of the Wildlife Protection Act, 1972 has empowered¹⁹ the following officers to exercise the powers under section 54 to the extent indicated against each of them, within their respective territorial jurisdictions:

Designation of officer	Extent of composition fees to be charged if the offence is proposed to be compounded
Chief Conservator of Forests/Chief Wildlife Warden/Additional Chief Conservator of Forests/Conservators of Forest/Deputy Conservators of Forest/Additional Dy Chief Wildlife Warden/Field Directors (Project Tiger)	<p>Offences involving animals specified in Schedule (IV) (Small game)</p> <p>First Offence: Market value of meat or trophy, plus equal amount, or Rs. 100 per animal or bird involved, whichever is higher, as penalty.</p> <p>In addition, an amount equal to the penalty shall be charged for the release of any vehicle involved in the offence.</p> <p>Second offence: Market value of the meat or trophy, plus penalty equal to twice the market value of the meat or Rs. 200 per animal or bird involved, whichever is higher.</p> <p>In addition, an amount equal to the penalty shall be charged for the release of any vehicle involved in the offence.</p> <p>The third and subsequent offences shall not be compounded save with the prior written approval of the Chief Wildlife Warden, but prosecuted.</p> <p>Offences involving animals of schedule II and III (excluding part II of schedule II)</p> <p>First Offence: Market value of meat or trophy, plus equal amount of Rs. 1000 per animal involved, whichever is higher, as penalty.</p> <p>In addition, an amount equal to the penalty shall be charged for the release of any vehicle involved in the offence.</p>

19. Notified vide G.O. No. F. 3(5) (8) Rev./Gr. VIII/72 dated 18/06/1983

Second Offence: Market value of the meat or trophy, plus penalty equal to twice the market value of the meat or Rs. 2000 per animal involved, whichever is higher.

In addition, an amount equal to the penalty shall be charged for the release of any vehicle involved in the offence.

The third and subsequent offences shall not be compounded save with the prior written approval of the Chief Wildlife Warden but prosecuted.

Explanation: The value of meat shall include the market value of the skin, horns and other saleable parts of the animals' carcass, in addition to the meat, in all the above cases.

12. Cognizance of offences:

- 12.1. For offences under Wildlife (Protection) Act 1972, complaints are filed by the Chief Wildlife Warden or any other officer authorized by the State Government subject to such conditions as may be specified by the Government or the Officer-in-Charge of the zoo in respect of violation of provisions of section 38 or any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the State Government or the officer authorized as aforesaid.
- 12.2. The Government of Rajasthan has authorized (a) all Forest Officers not below the rank of Range Officers (b) Wild Life wardens incharge of the sanctuary, Police officers not below the rank of Sub Inspector and (d) Officers of the revenue department not below the rank of Nb Tehsildar to make complaints under s 55 of the Wild Life (Protection) Act, 1972 within their respective jurisdiction.²⁰

13. Prevention and Detection of offences:

- 13.1. The Chief Wildlife Warden or the authorized officer or any Forest Officer or any Police Officer not below the rank of Sub-Inspector are empowered²¹ to require a person to produce the things and stop any vehicle or vessel in order to conduct search or inquiry or enter upon and search any premises, land, vehicle or vessel in the occupation of such person, and open and search any baggage or other things in his

20. Rule 42 of Rajasthan Wild Life (Protection) (Rajasthan) Rules, 1977.

21. S.50 Wild Life (Protection) Act, 1972.

possession. He may also seize any captive animal, wild animal, animal article, meat, trophy or uncured trophy, or any specified plant or part or derivative thereof in respect of which an offence against this Act appears to have been committed, in the possession of any person together with any trap, tool, vehicle, vessel or weapon used for committing any such offence and unless he is satisfied that such person will appear and answer any charge which may be preferred against him, arrest him without warrant and detain him.

- 13.2. In exercise of the powers conferred by Sub-section (8) of section 50 of the Wildlife (Protection) Act 1972, the state government appointed the following officers as authorized officer for purpose of the exercise of powers under the said sections of the Act:

1. The Chief Wildlife Warden
2. Conservator of Forests & Field Director
3. DCF/Dy. Director/DyCWLW/Dy. Field Director
4. ACF/Asst. Director/WLW/Asst. Field Director/Research

14. Procedure when offender not known.

- 14.1. Procedure when offender not known or cannot be found, shall be as per section 57 of Rajasthan Forest Act 1953. The magistrate may, if he finds that an offence has been committed, he may order the confiscation of the property in respect of which offence have been committed and he may order to take charge of the same to a forest officer or any person whom the magistrate deems to be entitled to the same.

15. Supreme Court directions:

- 15.1. Keeping in view the various directions issued by various courts including Honorable Supreme Court²², pertaining to human rights the following procedure should be followed while arresting a person under Rajasthan Forest Act, 1953 or Wild Life (Protection) Act, 1972.
- 15.2. The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations. The particulars of all such police personnel who handle interrogation of the arrestee must be recorded in a register.

22. D.K.Basu vs State of West Bengal, 1997 SCCI pg 371

- 15.3. That the police officer carrying out the arrest on the arrestee shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness, who may either be a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be countersigned by the arrestee and shall contain the time and date of arrest.
- 15.4. A person who have been arrested or detained and is being held in custody in a police station or interrogation centre or other lock-up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee.
- 15.5. The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the legal aid Organization in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.
- 15.6. The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.
- 15.7. An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestee is.
- 15.8. The arrestee should, where is so required, be also examined at the time of this arrest and major and minor injuries, if any present on his/her body, must be recorded at that time. The 'Inspection Memo' must be signed both by the arrestee and the police officer effecting the arrest and its copy provided to the arrestee.
- 15.9. The arrestee should be subjected to medical examination by a trained doctor every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by Director, Health Services of the State or Union Territory concerned. Director, health Services should prepare such a panel for all tehsils and districts as well. 15.10. Copies of all the documents including the memo of arrest, referred to above, should be sent to the Magistrate for his record.

- 15.11. The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.
- 15.12. A police control room should be provided at all district and state headquarters, where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest, within 12 hours of effecting the arrest and at the police control room it should be displayed on a conspicuous notice board.
- 15.13. For dealing with various offences pertaining to wildlife section 50 of Wild Life (Protection) Act, 1972 shall be followed. The procedure for recording the offence, preparing the case and disposal off the same shall be similar to forest offence. The same set of forms prescribed shall be used.
- 15.14. In case of an offence, where the offender is not known and further investigation conducted by forest officers does not yield any result, the following procedure is to be followed before closing the case i.e. before the Final Report (FR) is issued.

16. Disposal of old Wildlife / Forest offence cases²³

- 16.1. Procedure for cases pertaining to Part I & II of Schedule I and Part II of Schedule II.
 - 16.1.1. It is the duty of every forest officer to investigate and complete the cases either for compounding or prosecution. All efforts should be made to complete the investigation within prescribed limits²⁴ of the time schedule.
 - 16.1.2. If the offender is not known and proper investigations could not be completed with in a period of 1 year, the case should be handed over to flying squad of the Division who after re-verifying the facts shall submit it to the committee constituted for disposal of such cases.
 - 16.1.3. The committee for disposal of pending cases shall thoroughly scrutinize the cases submitted and take decisions. Only recommended cases should be considered.
 - 16.1.4. The constitution of the Committee shall be as under:-
Conservator of Forests of the Circle - Chairman

23. CWLW order No. F.3(B)Tech/CWLW/99/2411 dt 15/2/99

24. S 467 and 468 of Cr.P.C.

Senior most DCF of the Circle	- Member
DCF concerned division	-Member Secretary.
Concerned OIC	- Member
Concerned Honorary Wildlife Warden of the district	- Member

16.1.5. The committee shall meet at least once in 6 months to review the cases.

16.2. Procedure for cases pertaining to other than in Schedule I and Part II of Schedule II.

16.2.1. The steps mentioned for the earlier committee should be followed. The committee for disposal of these cases shall be as follows.

DCF of the concerned Wildlife division	Chairman
ACF of the division	Member
Incharge Flying squad	Member
Honorary Wildlife Warden of the district	Member

17. Trespass/ Encroachment

17.1. Any person who occupies or continues to occupy any land without lawful authority is regarded as trespasser, as per the definition available in the Rajasthan Land Revenue Act, 1956.

17.2. Trespassing is a criminal offence under Section 26(d), 26(h), 33(c) of the Rajasthan Forest Act, 1953 and the offender is liable for prosecution. Section 34(a) of the Wildlife (Protection) Act, 1972 and Section 2 read with Section 3(a) of the Forest (Conservation) Act, 1980 can be used to deal with the act of trespassing. Besides, provisions of S. 441 of the IPC are also applicable though the trespass is better dealt with in accordance with the provisions of the Special Act. Punitive action can be taken against the encroachers under all the provisions of Acts mentioned above when applicable.

17.3. Effective and prompt action in case of encroachments on lands of Sanctuary/National Parks should preferably be taken under the Wildlife (Protection) Act, 1972. Immediate action including eviction for filing a complaint in the appropriate court along with

arrest of the concerned person is possible under the Rajasthan Forest Act, 1953 as well.

- 17.4. The State Government has authorized²⁵ various officers of the Forest Department under Section 91 of Rajasthan Land Revenue Act, 1956 to exercise all the powers of Tehsildar with regard to eviction of trespasser from the forest land.

18. Application of the Indian Penal Code to the Forest offences

- 18.1. Ordinary Acts of mischief, trespass, petty theft of woods and offences against produce in transit, are, generally best prosecuted under the Forest Act. But wherever the offences are of serious nature and special criminality appears to be involved, the IPC should be resorted to.
- 18.2. Some of the sections, which may be of used while prosecuting forest offenders, are listed below. For details the IPC may be referred and in cases of very serious nature it is always advisable to appoint a pleader as no manual can be a substitute for and experienced legal practitioner.

S. No.	Nature of Offence	I.P.C. Section	Comments
Offences directly connected with Forests or its produce			
1.	Theft or misappropriation with its attendant offences	378, 403	Theft always refers to movable property which is in possession of the person robbed which means the section can be applied when the tree is cut and separated from ground or soil is taken out, fruits pulled out etc. If the log was lying on roadside and not in possession of anyone it is not theft but criminal misappropriation (s. 403)
2.	Receiving stolen property	410, 411, 413 & 414	Property possession of which transferred by theft, extortion or robbery or which has been criminal misappropriated is a stolen property (s. 410). Dishonestly receiving and retaining it is punishable u/s 411. Habitual dealing in such property (s. 413) and assisting in concealment is u/s 414. Here circumstances are important as receiving the property at night at a very low price and trying to bury it and conceal

25. Notification No. F.6(14)Raj-06/95/25 dt 21/8/2012

3.	Mischief	425, 427, 437, 430-1, 428-9	To prove mischief we need to prove the intention of the offender to cause or knowledge that it is likely to cause wrongful loss to public or to a person. It only relates to property and not men. Minor mischief is covered u/s 426. If the damage is Rs 50/- or more (s. 427) and if the damage by mischief by say fire is Rs 100/- or more, it is covered u/s 437)
4.	Criminal trespass	441, 413-4, 445-50	It is advisable to apply the provisions of special Acts.
5.	Abetment of offences	40, 108 explanation 2, 109, 111, 115, 114	Refer S. 107 to understand abetment. It is not necessary that the offence is committed. S. 40 explains that offences under special Acts are also included in abetment so there is no need for its specific mention in the RFA.
6.	Attempt to commit offences	511	An attempt requires some penal action done towards the commission of the offence. Its punishment is equal to the act itself. Prosecution for attempt should be considered only in very serious offences.

Offences indirectly connected to the with forest Administration

1.	Unlawful assembly	141-143, 144	If five or more persons assemble with the object of resisting the execution of Forest law or by means of criminal force or show of such force, compel anyone to do what he is not bound to do or not to do what he is legally entitled to do with the object of committing an offence under any law, such assembly is unlawful and punishable under 141-143. If the party is armed, S.144 applies.
2.	Giving aid & information	78 RFA, 176, 187, 177, 201	If a person is legally duty bound to give information or render assistance in forest cases u/s 78 RFA omits intentionally to do so, he is punishable u/s 176 or 187 respectively. If the information given is false (s. 177) and if evidence is caused to be destroyed (s. 201) shall apply.
3.	Giving false evidence	191-195	
4.	Concealing offenders	202	
5.	Breach of trust	105, 409	If the Forest Contractor rather than transporting timber which may be very costly burns it or buries it and does not use it himself (s.105) but if a clerk makes away Government cash, he is liable u/s 409.

General principal of criminal law relating to offences.

1.	General expressions	40	S. 40 extends the application of general principles of the IPC to all other offences under any Act including special Acts.in punishable with a certain penalty (six months' prison and upward, with or without fine)
2.	Act done under mistake of facts	76, 79	Refer the relevant section.
3.	Accident or misfortune	80	Refer the relevant section.
4.	Act done to prevent other mischief	81	Refer the relevant section.
5.	Act done of necessity		Like hunger to prevent death or driving cattle into forest for shelter after a sudden storm etc.
6.	Acts by children, Lunatics etc.	82, 83, 84	Refer the relevant section.
7.	Act done under influence of Intoxication.	85	Refer the relevant section.
8.	Act done by consent.		Like by a right holder or a contractor under permission from the DCF.
9.	Act under compulsion	94	Refer the relevant section.
10.	Act of very trifling character	95	Refer the relevant section.
11.	Act done in self defense	96-108	Refer the relevant section.
12.	No responsibility of one person for an Act done by another		A master is not responsible for the forest offence committed by his servant.

Circumstances aggravating an offence

1.	Enhanced punishment under special circumstances	42 of FRA	Offence after sunset, before sunrise, after preparation for resistance to lawful authority and in the case of a second conviction of a like case not the same case. Removal of property mark or burying the log in sand to conceal can lead to aggravating the offence.
2.	Enhance punishment on second conviction	75	Any person who is convicted under any offence under Chapter XVII (Offences against property like theft, robbery, breach of trust, receiving stolen property, cheating, mischief, criminal trespass etc) may be awarded double the punishment provided for in the relevant section.

19. Recoveries of Government Revenue

- 19.1. Section 85 of the Rajasthan Forest Act 1953 provides for recovery of penalties due under bond. Any sum mentioned in such bond or instrument as the amount to be paid in case of breach of a condition of the bond is recoverable from him as if it were arrears of land revenue.
- 19.2. Under Section 256 of Land Revenue Act, the following moneys are recoverable in the same manner as an arrear of land revenue.
 - 19.2.1. All sums of money declared by this Act or by any law for the time being in force other than the Rajasthan Public Demands Recovery Act, 1962 (Rajasthan Act 5 of 1952),
 - 19.2.1.1. to be recoverable as an arrear of revenue and revenue or rent, or 19.2.1.2. to be a demand or public demand or to be recoverable or realizable as a demand or a public demand or as an arrear of a demand or a public demand;
 - 19.2.2. All sums of money payable to the State Government or to a department or an officer of the State Government or to a local authority on account of rates, duties, taxes, charges or other dues under any law or rule having the force of law, notwithstanding that such law or rule does not declare the same to be recoverable or realizable as an arrear of revenue or land revenue or rent or to be a demand or a public demand or to be recoverable as an arrear of a demand or a public demand;
 - 19.2.3. all sums of money payable to the State Government or to a department or an officer of the State Government or to a local authority-
 - 19.2.3.1. by way of fees, fines, penalties, compensation of costs imposed or awarded by any authority, not being a civil or criminal court, under this Act or under any other law for the time being in force, or
 - 19.2.3.2. on account of pasturage, forests rights, fisheries mills, natural products or land, water-rates, irrigation charges, maintenance and management of irrigation works and the like;
 - 19.2.4. all rents, premia, cesses, rates, fees and royalties due to the State Government on account of the use or occupation of land or water or other immovable property, whether belonging to the State Government or not, or on account of any products thereof or proceeds therefrom or on any other account;
 - 19.2.5. all sums of money due to the State Government under any

grant, lease or contract which provides that they shall be recoverable as arrears of revenue or land revenue.

- 19.3. Section-257 of LRA states that every person who may have become a surety under any of the provisions of this Act or under any other enactment or any grant, lease or contract whereunder the sum secured, is recoverable from the principal as an arrear of revenue, shall, on failure to pay the amount or any portion thereof which he may have become liable to pay under the terms of his security bond, be liable to be proceeded against as if such amount of portion thereof were an arrear of revenue.
- 19.4. Section 257-A provides for details to be submitted while making an application to the Collector for making the recovery. It reads that (1) Any officer or authority, to whom any sum of money referred to in Section 256 or Section 257 is due and payable, shall make to the Collector an application in writing in the prescribed form²⁶, containing the following particulars, namely:-
- 19.4.1. the officer authority to whom the sum is due and payable,
 - 19.4.2. the name and description of the person from whom the sum is due,
 - 19.4.3. the sum due and the nature thereof,
 - 19.4.4. the period, if any, for which it is due and the date on which it first became payable,
 - 19.4.5. the process by which the sum may be recovered,
 - 19.4.6. where possible, the property against which the process may be executed, and,
 - 19.4.7. such other particulars as may be prescribed by the State Government; Provided that no such application shall be necessary in cases in which according to the law under which such sum of money is due and payable a certificate or certified statement of account or other document, specifying, as nearly as may be aforesaid particulars, is required to be sent and has been sent to the Collector.
- 19.5. The application, certificate, statement of account or other document referred to above shall for the purpose of recovery shall be conclusive evidence of the existence of the arrear payable to the officer or authority signing the same, of the amount of such arrear and of the person who is the defaulter.
- 19.6. The prescribed form is reproduced hereinunder:-

26. Form No X under Rule 63 of Payments, Credits, Refunds and Recovery Rules, 1958 under RLRA, 1956.

FORM No.X

Form of Application for recovery of moneys referred

to in Section 256 or 257 of Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956).

From:-

The _____

(Official designation of officer or
authority making the application)

To

The Collector,

Sub:- Application for recovery of money referred to in Section 256/257 of the Rajasthan Land Revenue Act, 1956.

Sir,

This is an application for recovery of money referred to in Section 256/257 of the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956).

2. The required particulars are as under:-

- (a) Name of officer or authority to whom the sum is due and payable, _____
- (b) Name and description of the person from whom the sum is due. A.B. S/o C.D. resident of E.F. (Full particulars sufficient to trace the defaulter should be given)
- (c) Sum due and the nature thereof Rs...../-(Rupees..... in words) on account of (Full particulars of dues such as nature, amount, amount of interest etc. should be given. For particulars see clauses (a) to (e) of Section 256 and Section 257 of Act 15 of 1956).
- (d) The period, if any, from which it is due and the date on which it first became payable. _____
- (e) Process by which the sum may be recovered. _____
- (f) Particulars of property (if any, which process may be executed.) against _____
- (g) Further particulars (if required under Section 257 C of Rajasthan Act 15 of 1956) _____

3. The sum is recoverable by you in the same manner as an arrear of revenue; and you are, therefore, requested to recover it as such and submit it to my office at.....

Yours faithfully,
Signature and designation
with seal and date

- 19.7. Recoveries related to the following can be made under Rajasthan Public Demands Recovery Act, 1952.
- 19.7.1. Any money payable to the State Government or to a department or an officer of Government-
- 19.7.1.1. Under or in pursuance of written instrument, or
- 19.7.1.2. Under or in pursuance of an agreement evidenced by a writing, a correspondence or otherwise in repayment of any advances or in lieu of any services rendered or supplies made by the Government or such department or officer of Government).
- 19.7.2. Any money payable to any local authority, in respect of which the person liable to pay the same has agreed, by a written instrument or agreement, duly registered, that it shall be recoverable as a demand or a public demand or as an arrear of revenue or land revenue.
- 19.7.3. Any money payable to the (State Government) or to a department or an officer of (State Government) in consequence of loss, misappropriation, defalcation or breach of trust by a public servant.
- 19.7.4. Any money due from a person who is a surety for the payment of any sum recoverable under the provisions of this Act.
- 19.7.5. Any money due from a purchaser at a sale held in execution of a certificate under this Act, whether the sale is subsisting or not.
- 19.7.6. Any money payable to a public undertaking-
- 19.7.6.1. under or in pursuance of a written instrument; or
- 19.7.6.2. under or in pursuance of an agreement with the public undertaking and evidenced by a writing, a correspondence or otherwise in repayment of any loan or advance or in lieu of any services rendered or supplies made by or on behalf of the public undertaking; or
- 19.7.6.3. in consequence of loss, misappropriation, defalcation or breach of trust by any employee of a public undertaking.
- 19.7.6.4. The requisition is submitted in the following format to the Collector in whose jurisdiction the defaulter is residing or his property is situated.

FORMS (See Rule 15)

FORM NO. 1

Requisition for a Certificate

(See section 3)

To the Collector of the district of

Name of defaulter	Address of Defaulter	Amount of public demand for which this requisition is made
1	2	3

(Period for which demand is due)	Nature of the public Demand, for which this requisition is made	(Budget head wherein recovery shall be deposited)
1	2	3

I request you to recover the above-mentioned sum of Rs. which I am satisfied, after inquiry, is due from the said in respect of

Verified by me on theday of19.....

A.B.
Designation

20. Rewards

- 20.1. The Government of Rajasthan has made rules in exercise of the power conferred by close (b) of section 76 of the Rajasthan Forest Act, 1953 to regulate the rewards to be paid to the officers (Non gazetted only) and informers out of the proceeds of fines and confiscation.
- 20.2. The rewards may be given to be informers or non gazette officers who have contributed to the convection of the offender or offenders or to the seizure of the property confiscated in respect of unlicensed shooting .
- 20.3. The rewards may be given in cases where the information is found valid and leads to the conviction of the offender by a court of competent jurisdiction. The reward can also be given in cases where the offence is compounded.
- 20.4. The rewards will be given by the conservator of Forests of the circle in which the offence was committed, on satisfying himself that the

informer or the officer has rendered valuable service for detecting or preventing breach of the Act., in such a way which otherwise would not have been detected or prevented.

- 20.5. If in any case it is thought desirable to give rewards in excess of the amount mentioned in rule 2, it may be awarded by the Chief Conservator of Forests on the recommendation of the Conservator, Forest of the Circle.
- 20.6. Provisions for giving rewards also exist in the Wild Life (Protection) Act, 1972. These are as under:
- 20.7. S.60A Reward to persons.-
 1. When a court imposes a sentence of fine or a sentence of which fine forms a part, the court may when passing judgement order that the reward be paid to a person who renders assistance in the detection of the offence or the apprehension of the offenders out of the proceeds of fine not exceeding fifty percent of such fine.
 2. When a case is compounded under section 54, the officer compounding may order reward to be paid to a person who renders assistance in the detection of the offence or the apprehension of the offenders out of the sum of money accepted by way of composition not exceeding fifty percent of such money.
- 20.8. S.60B Reward by State Government.-
 1. The State Government may empower the Chief Wild Life Warden to order payment or reward not exceeding ten thousand rupees to be paid to a person who renders assistance in the detection of the offence or the apprehension of the offenders, from such fund and in such manner as may be prescribed.