

Court No. - 87

Case :- APPLICATION U/S 482 No. - 39668 of 2023

Applicant :- Vijay

Opposite Party :- State of U.P.

Counsel for Applicant :- Mani Shanker Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Neeraj Tiwari,J.

1. Heard learned counsel for the applicant, learned A.G.A. and perused the record.

2. By this petition learned counsel for the petitioner has prayed to quash the order dated 23.12.2022 passed by the District Magistrate, Chandauli in Case No. 478 of 2021, Computerized Case No. D202114180000478 of 2021 (State Vs. Vijay and others), under Section 5Ka of U.P. Cow Slaughter (Prevention) Act, 1955, P.S. Saiyed Raja, District Chandauli, arising out of case crime no. 225 of 2020, under Section 3/5A/5B/8 Prevention of Cow Slaughter Act and 11 Animal Cruelty Act and 120B I.P.C. as well as order dated 24.07.2023 passed by Sessions Judge, Chandauli in Criminal Revision No. 40 of 2023 by which release application of Vehicle (Truck) No. UP70 CT-6296 has been rejected.

3. Learned counsel for the applicant contends that applicant is owner of the vehicle in question and no useful purpose would be served in keeping the vehicle at police station which would result in the vehicle becoming junk. Learned counsel for the applicant has relied upon a decision of Hon'ble Apex Court in the matter of ***Sunder Bhai Ambalal Desai Vs. State of Gujarat 2003 (46) A.C.C. 223*** in support of his contention, in which it has been held that it is not desirable in the matter of motor vehicle, the vehicle be kept at the police station for a long time which result in the vehicle becoming junk, therefore, the vehicle-in-question should be released in favour of the registered owner on such terms and conditions as the court below may deem fit and proper. Relevant paragraphs of the said judgment is being quoted below;

" Learned senior counsel Mr. Dholakia, appearing for the State of Gujarat further submitted that at present in the police station premises, number of vehicles are kept unattended and vehicles become junk day by day. It is his contention that appropriate

directions should be given to the Magistrates who are dealing with such questions to hand over such vehicles to its owner or to the person from whom the said vehicles are seized by taking appropriate bond and the guarantee for the return of the said vehicles if required by the Court at any point of time.

However, the learned counsel appearing for the petitioners submitted that this question of handing over vehicles to the person from whom it is seized or to its true owner is always a matter of litigation and a lot of arguments are advanced by the concerned persons.

In our view, whatever be the situation, it is of no use to keep such-seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company then insurance company be informed by the Court to take possession of the vehicle which is not claimed by the owner or a third person. If Insurance company fails to take possession, the vehicles may be sold as per the direction of the Court. The Court would pass such order within a period of six months from the date of production of the said vehicle before the Court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchnama should be prepared."

4. Learned counsel for the applicant has also placed reliance upon the judgments of this Court reported in **2007(1) JIC (All.), Ramesh Chandra Shukla Vs. State of U.P. & another** and **2012 (77) ACC 381 Shyam Singh Kushwaha Vs. State of U.P. and another** in support of his contention.

5. After hearing the learned counsel for the applicant, learned A.G.A., and after perusing the order impugned as well as averments made in the present application, this Court is of the opinion, that the arguments as raised by learned counsel for the applicant has substance.

6. Accordingly, the orders dated 24.07.2023 passed by learned Session Judge, Chandauli and 23.12.2022 passed by District

Magistrate, Chandauli are hereby quashed with the liberty to the applicant to file an appropriate application alongwith all relevant documents showing the ownership of the vehicle, before District Magistrate, Chandauli. If such an application is filed within one month from today, the same shall be considered and disposed of as expeditiously as possible, strictly in accordance with law as well as in terms of judgment and order passed by the Apex Court in the matter of ***Sunder Bhai Ambalal Desai (supra)*** maximum within a period of one month, thereafter.

7. With the aforesaid directions, this application under Section 482 Cr.P.C. is **allowed**.

Order Date :- 3.11.2023

Arvind