

Court No. - 81

Case :- CRIMINAL REVISION No. - 4685 of 2024

Revisionist :- Mukhtar

Opposite Party :- State Of Up And 3 Others

Counsel for Revisionist :- Narendra Deo Shukla,Vivek Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Rajesh Singh Chauhan,J.

1. Heard learned counsel for the revisionist and the learned Additional Government Advocate for the State.

2. By means of this criminal revision, the revisionist has prayed for setting aside the impugned judgment and order dated 16.03.2022 passed by the District Magistrate, Chandauli in Case No.1022 of 2021, Computerized Case No.D202110180001022 (State vs. Ali Hussain & another), under Section 5 (Ka) of U.P. Prevention of Cows Slaughter Act, 1955, relating to Case Crime No.148 of 2021, under Sections 3/5A/5B/8 of U.P. Prevention of Cows Slaughter Act, Section 11 of U.P. Prevention of Cruelty to Animals Act & Section 379 & 411 I.P.C., Police Station-Alingar, District-Chandauli. The revisionist has further prayed that this Hon'ble Court may graciously be pleased to direct the District Magistrate,Bhadohi to release the vehicle of the revisionist relating to aforesaid Case No.156 of 2022; Computerized Case No.1022 of 2021, Computerized Case No.D202110180001022 (State vs. Ali Hussain & another), under Section 5 (Ka) of U.P. Prevention of Cows Slaughter Act, 1955, relating to Case Crime No.148 of 2021, under Sections 3/5A/5B/8 of U.P. Prevention of Cows Slaughter Act, Section 11 of U.P. Prevention of Cruelty to Animals Act & Section 379 & 411 I.P.C., Police Station-Alingar, District-Chandauli, otherwise the revisionist will suffer irreparable loss and injury.

3. At the very outset, learned Additional Government Advocate has raised an objection placing reliance of the notification/ clarification dated 15.10.2024 issued by the Government of U.P.,Department of Home (Police), Anubhag-9, Lucknow to the effect that the Commissioner of Range is having revisional power against the order of the District Magistrate making seizure of the vehicle wherein the progeny of the cow being transported in an illegal manner.

4. Learned counsel for the revisionist has stated that the vehicle of the revisionist has been falsely seized as no illegal transportation of progeny of cow was being done in his vehicle which is a truck bearing No.UP-61/AT-2325. The alleged occurrence is said to have been taken place on 07.04.2021 at 4:35 a.m. and the First Information Report was lodged on the same day i.e. 07.04.2021 at 14:35 p.m. against the present revisionist and another co-accused under Section 3/5A/8 of U.P. Prevention of Cows Slaughter Act, Section 11 of U.P. Prevention of Cruelty to Animals Act & Section 379 & 411 I.P.C., Police Station-Alingar, District-Chandauli registered as Case Crime No.148 of 2021. The revisionist is a registered owner of the aforesaid vehicle and all the required formalities including fitness, goods tax etc. are completed. After seizure of the vehicle the Investigating Officer completed investigation and filed the charge-sheet against the accused person and the learned trial court took cognizance of the charge-sheet. The present revisionist is on bail. Since the vehicle in question is a public carrier and it is the only source of livelihood of the revisionist and his family members, therefore an application was filed before the District Magistrate, Chandauli seeking release of the aforesaid vehicle.

5. Learned counsel for the revisionist has stated that the aforesaid vehicle is not only the source of livelihood of the present revisionist and his family members but also the same comes within the definition of property, therefore, such vehicle may not be seized for unlimited period. Therefore, such seizure is not only violative of Article 21 of the Constitution of India but Article 300-A of the Constitution of India. Besides, the vehicle is a perishable item and if the same is kept in an abundant condition at police station, it will loose its entire value, whereas the present revisionist is ready to furnish/ submit the appropriate surety and bonds to get the aforesaid vehicle released in his favour with the undertaking that as and when the same will be required it will be produced before the authority concerned. The Competent Authority/ District Magistrate concerned rejected the aforesaid application of the revisionist without appreciating the factual and legal matrix of the issue.

6. Learned counsel for the revisionist has stated that the present revisionist has taken loan to the tune of Rs.50,00,000/- (Fifty lakhs) as his vehicle is a huge vehicle having 18 Tyres and on account of the seizure of the aforesaid vehicle with effect from 04.07.2021 he is not able to earn anything, resultant thereof, he could not deposit the installments of the loan.

7. Learned counsel for the revisionist has also stated that if any public carrier runs on road, not only the owner of the vehicle but the State Authority earns in the shape of revenue being deposited in various heads, therefore, it is loss of the State Authority also for no fruitful purposes. Learned counsel has stated that since the trial is going on where the present revisionist is cooperating properly and there is no likelihood to conclude the trial shortly, so making seizure of the vehicle for unlimited period would be detrimental to the revisionist as well as to the State also. The reliance has been placed upon the judgments of this Court rendered in the case in re: ***Criminal Revision No.4956 of 2023; Vaseem Ahmad vs. State of U.P. & another reported [2024 (126) ACC 397]*** and the judgment dated 23.10.2024 passed in ***Criminal Revision No.1429 of 2024; Munib vs. State of U.P. and 02 others***, whereby this Court more or less in an identical circumstances granted relief to the owner of the vehicle.

8. Learned counsel for the revisionist has stated on the basis of specific instructions from his client that the aforesaid vehicle has not been subjected to auction as on today i.e. 11.02.2025.

9. On that, learned Additional Government Advocate has informed on the basis of instructions so received that the aforesaid vehicle has not been subjected to auction by 18.12.2024 but he does not know the further development.

10. Be that as it may, since the vehicle in question is a public carrier, the same is perishable in nature; the vehicle in question does not only earn for the owner of the vehicle of his family but various State Authorities receive the revenue out of this vehicle also if the vehicle in question runs on the road; as per mandate of Article 300-A of the Constitution of India no one shall be deprived on his property except in accordance with law; since the vehicle in question is directly related to the livelihood of the revisionist and his family members, therefore, the vehicle owner has got fundamental right under Article 21 of the Constitution; the trial is going on in the issue in question and there is no possibility to conclude the same shortly and the undertaking of the revisionist that he is ready to furnish/ submit appropriate surety and bonds for getting the aforesaid vehicle released, therefore, considering the judgments on the subject as aforesaid i.e. Vaseem Ahmad (supra) and Munib (supra), I find it appropriate that the vehicle of the revisionist bearing ***Truck No.UP-61/AT-2325*** be released in his favour on his furnishing surety and bonds to the tune of Rs.10,00,000/- (Ten lakhs) after verifying those sureties properly before releasing the same with the condition that as and when the

aforesaid vehicle / case property of the case crime is required by the Competent Authority/ Court concerned, the same shall be produced before the Authority/ Court concerned and no such type of transportation shall be done by the revisionist, failing which, the benefit of this order would not be applicable in favour of the revisionist.

11. It is made clear that if the aforesaid vehicle has been subjected to auction and the sale has been confirmed on or before 11.02.2025, the benefit of this order would not be given to the revisionist.

12. Therefore, the present revision is ***allowed***. The impugned order dated 16.03.2022 passed by the District Magistrate, Chandauli is hereby set aside/ quashed.

13. No order as to the cost.

[Rajesh Singh Chauhan,J.]

Order Date :- 11.2.2025
Suresh