

Court No. - 43

Case :- CRIMINAL MISC. WRIT PETITION No. - 14242 of 2025

Petitioner :- Nitesh Kumar

Respondent :- State Of Uttar Pradesh And 2 Others

Counsel for Petitioner :- Devottam Pandey

Counsel for Respondent :- G.A.

Hon'ble Siddhartha Varma,J.

Hon'ble Anil Kumar-X,J.

(Per Anil Kumar, J.)

1. Heard Sri Devottam Pandey, learned counsel for the petitioner and learned AGA for the State.

2. Challenge in this present petition is the confiscation order dated 22.3.2025 passed by the District Magistrate Ballia in Case No. 3080 of 2024 (State vs. Nitesh Kumar) under Section 5(a) of U.P. Prevention of Cow Slaughter Act, 1955, where vehicle No. UP 60 BT 9421 of the petitioner was confiscated.

3. Brief facts of this case is that on basis of an information, the above vehicle of the petitioner was seized by the police personnel and they found that it was carrying certain bovines. It was also suspected that the said vehicle was used for illegal transportation of bovines. Thereafter, an FIR bearing Case Crime No. 249 of 2024, under Section 3/5(a)/8 of U.P. Prevention of Cow Slaughter Act, 1955. Thereafter, an application before District Magistrate

was forwarded with a prayer to confiscate the aforesaid vehicle. Proceeding under Section 5a(7) under the aforesaid Act was initiated by the District Magistrate. Notice was also issued to present petitioner who after his appearance file his objections. But his objections were not found satisfactory and the impugned order to confiscate the vehicle of the petitioner was passed.

4. Learned counsel for the petitioner has submitted that petitioner is involved in business of selling milk and his vehicle is engaged in the said business for transportation of milk. But certain police personnel continue to harass him as he is unable to gratify their illegal demands. Present proceedings against him were drawn only due to the said vendetta. The petitioner is the owner of the vehicle and he has also filed the registration certificate. Therefore, the impugned order dated 22.3.2025 is illegal and is liable to be quashed and the confiscated vehicle be released in favour of the petitioner.

5. Learned AGA has submitted that U.P. Prevention of Cow Slaughter Act, 1955 does not mention any remedy against confiscation order passed in the Act. In given circumstances, it was held by the co-ordinate Bench of this Court in Criminal Misc. Writ Petition No. 9028 of 2021 (Mustakeem Begum vs. State of U.P. and 3 Ors) that the Act does not provide any forum of appeal or revision against the order of confiscation regarding the seized vehicle passed by the District Magistrate. Thereafter, it was held that in such circumstances, provisions of criminal revision under Section 397 of Cr.P.C., shall be applicable and a criminal revision in the court of Sessions against such order will lie. Though it was mentioned that such orders are revisable before the Sessions court, yet many criminal revisions by this High Court were also entertained. Later on, a notification was issued by Government of

Uttar Pradesh on 15.10.2024 wherein it was laid down that if the legality or propriety of the action taken under the Section 5a of the U.P. Prevention of Cow Slaughter Act, 1955 is to be challenged, the same could be challenged before the Divisional Commissioner. Therefore, present criminal writ against the impugned order is not maintainable.

6. Confronted with the above notification dated 15.10.2024, learned counsel for the petitioner prayed that he may be permitted to file a criminal revision against the impugned order before Divisional Commissioner and it was also prayed that delay occurred under the above circumstances be also condoned.

7. After hearing the counsel for the parties, it becomes apparent that U.P. Prevention of Cow Slaughter Act, 1955 does not provide any forum of appeal or revision against the order of confiscation regarding the seized vehicle passed by the District Magistrate. It is trite law that if any judicial or quasi judicial order is passed against a party, then he must have a forum to vindicate his grievances. A party cannot be left in lurch in case any such order is passed against him. From the perusal of the order passed in Criminal Misc. Writ Petition No. 9028 of 2021, it is evident that the said order was passed on 26.4.2024 when no such forum was available for a party to challenge the confiscation order passed by the District Magistrate in U.P. Prevention of Cow Slaughter Act, 1955. It appears that the said lacuna which occurred due to oversight of the legislature was rectified later on by issuing a notification dated 15.10.2024.

8. We have also perused the above notification which is reproduced herein below:-

UTTAR PRADESH SHASAN

Grih (Police) Anubhag-9

In pursuance of the provisions of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of Notification no. U.O./77/VI-P-9-2024 dated 15 October, 2024.

NOTIFICATION

No. U.O./77 U.O-/VI-P-9-2024

Lucknow: Dated: 15 October, 2024

In exercise of the powers under sub-section (5) of section 5-A of the Uttar Pradesh Prevention of Cow Slaughter Act, 1955 (U.P. Act no. 1 of 1956) read with section 21 of the Uttar Pradesh General Clauses Act, 1904 (U.P. Act no. 1 of 1904), the Governor is pleased to authorise the Divisional Commissioner to satisfy himself at any time as to the legality or propriety of the action taken under the section 5-A of the Uttar Pradesh Prevention of Cow Slaughter Act, 1955 (U.P. Act no. I of 1956), call for and examine the record of any case and pass such order thereon as he may deem fit.

The aforesaid power shall be exercised within the limit of the respective districts of the Divisional Commissioners.

It is further Clarified that aforesaid authority Conferred to Division Commissioner may be know as Revisional Jurisdiction.

By Order,
(Rajesh kumar)

Secretary.

Signed by

Rajesh Kumar

Date: 15-10-2024 14:44:39

9. In light of the aforesaid notification, it is very much clear that a criminal revision before Divisional Commissioner alone will lie against the confiscation order passed by the District Magistrate in U.P. Prevention of Cow Slaughter Act, 1955. Hence, the present criminal writ against the impugned order after the said notification is not maintainable as petitioner has equal and efficacious remedy to ventilate his grievances. However, we are of the view that the above notification which was issued on 15.10.2024 would not have come to the notice of the petitioner. Therefore we find it appropriate to dispose of this writ petition with a liberty to the petitioner to approach the proper forum for filing a criminal revision within a month from the date of order and if petitioner approaches the forum as directed by this Court, the concerned Division Commissioner will entertain his revision without going into the question of limitation.

10. Since we are aware that issue of this nature frequently arises before Sessions Judges, who are vested with the judicial power to adjudicate such orders, it is directed that copy of this judgment shall be circulated amongst all the Judicial Officers within State of U.P. through the District and Sessions Judges concerned. Similarly, a copy of this order shall also be sent to Director of Judicial Training and Research Institute.

11. Let a copy of this order be placed before the Registrar General of this Court, who will comply the directions given in para 10 of this judgment.

Order Date :- 18.7.2025

Ujjawal

(Anil Kumar-X,J.)

(Siddhartha Varma,J.)