

Neutral Citation No. - 2025:AHC:62176

Reserved

Court No. - 82

Case :- CRIMINAL REVISION No. - 3100 of 2024

Revisionist :- Shakuntala Singh

Opposite Party :- State Of U.P. And 3 Others

Counsel for Revisionist :- Chandra Prakash Mishra, Hari Narayan Singh, Kartikeya Shukla

Counsel for Opposite Party :- Pramod Kumar Rai, G.A.

Hon'ble Manjive Shukla, J.

1. Heard Sri Hari Narayan Singh, learned counsel appearing for the revisionist, learned Additional Government Advocate appearing for the State and Sri Pramod Kumar Rai, learned counsel appearing for Opposite Party No.5.

2. The instant criminal revision has been filed challenging therein, the judgment and order dated 11.03.2024 passed by the Collector, Gorakhpur in Case No.2660/2023, Computerized Case No.D202305310002660 (State Vs. Pramod Kumar Yadav and others) whereby, in exercise of power under Section 6-A of the Essential Commodities Act, 1955 (hereinafter referred to as 'the Act of 1955'), the revisionist's Tanker bearing Registration No. UP-53-DT-4348 had been confiscated in favour of the State.

3. The revisionist through this revision has also challenged the judgment and order dated 16.05.2024 passed by the learned Special Judge (E.C. Act)/Additional Sessions Judge, Gorakhpur in Criminal Appeal No.29/2024 (Smt. Shakuntala Vs. State of U.P.) whereby, the appeal filed by the revisionist had been rejected and the order dated 11.03.2024 passed by the Collector, Gorakhpur under Section 6-A of the Act of 1955, had been affirmed.

4. Facts of the case, in brief, are that a criminal case bearing Case Crime No.404/2023 had been registered under Sections 41, 411, 413, 414, 420, 467, 468 and 120-B I.P.C. in Police Station Chauri Chaura, District Gorakhpur. Later on, in the aforesaid criminal case, Section 3/7 of the Act of 1955 had been added. In the aforesaid criminal case, it has been alleged that three Tankers bearing Registration No.UP-52-F-9805, UP-53-DT-4348, UP-52-T-2705 were found at a different location i.e. the location different to that of their allotted route and the drivers of the said Tankers along with other persons were found involved in the illegal sale of diesel from the aforesaid Tankers. The police arrested the accused from the spot along with the aforesaid three Tankers and a Bollero Jeep having Registration No.UP-77-C-1453 along with diesel and containers. The police after the aforesaid arrest of the accused had registered the criminal case in which the drivers of the Tankers and other persons involved in the illegal sale of diesel have been made accused and the vehicles and other material found from the place of occurrence were seized. The District Supply Officer, Gorakhpur submitted a report on 23.9.2023 which was based on a police report dated 30.8.2023 and requested the Collector, Gorakhpur to confiscate the vehicles and other material seized from the place of occurrence as contemplated under Section 6-A of the Act of 1955.

5. The Collector, Gorakhpur issued notice to all the concerned parties including the present revisionist. The present revisionist filed her reply stating therein that she is the registered owner of the Tanker bearing Registration No. UP-53-DT-4348 and there is no allegation against her in the entire criminal case.

The revisionist in her reply further stated that it was the driver of the Tanker who was found involved in the illegal sale of diesel from the Tanker and further all the persons who were found involved in the illegal sale of diesel have been made accused in the criminal case. There is neither any allegation against the revisionist in the entire case nor she has been made accused in the said case therefore, she being the registered owner of the Tanker bearing Registration No. UP-53-DT-4348 is entitled for release of the Tanker in her favour and further the proceedings initiated under Section 6-A of the Act of 1955 are liable to be dropped against the revisionist's Tanker bearing Registration No. UP-53-DT-4348.

6. The Collector, Gorakhpur had passed the order dated 11.03.2024 whereby, in exercise of power under Section 6-A of the Act of 1955, had confiscated the revisionist's Tanker bearing Registration No. UP-53-DT-4348 and other vehicles and material which were seized by the police from the place of occurrence.

7. The revisionist challenged the order dated 11.03.2024 passed by the Collector, Gorakhpur in Case No.2660/2023 by filing Criminal Appeal No.29/2024 wherein, challenge was made in regard to the confiscation of the revisionist's Tanker bearing Registration No. UP-53-DT-4348.

8. The learned Special Judge (E.C. Act)/Additional Sessions Judge, Gorakhpur had dismissed Criminal Appeal No.29/2024 and had affirmed the order dated 11.03.2024 passed by the Collector, Gorakhpur whereby, the revisionist's Tanker bearing Registration No. UP-53-DT-4348 had been confiscated in favour of the State.

9. Learned counsel appearing for the revisionist has submitted that it is undisputed that the revisionist is the registered owner of the Tanker bearing Registration No. UP-53-DT-4348. The said tanker was seized by the police in connection with Case Crime No.404/2023 and the drivers found involved in the illegal sale of the diesel and other connected persons have been made accused in the said case. It has further been submitted that neither the revisionist, who is the registered owner of the Tanker bearing Registration No. UP-53-DT-4348, has been made accused in the aforesaid criminal case nor there is any allegation against the revisionist connecting her with the crime in question in any manner, whatsoever.

10. Learned counsel appearing for the revisionist has argued that once the revisionist is not an accused in the criminal case registered in respect of the allegation of illegal sale of the diesel and in the entire case, no role has been assigned to the revisionist connecting her with the crime in question, her Tanker cannot be confiscated for alleged illegal act done by his driver. It has further been argued that in the entire case, no where there is any allegation that the revisionist in any manner had instructed her driver to indulge in any illegal sale of the diesel therefore, by no stretch of imagination, her Tanker can be confiscated under Section 6-A of the Act of 1955.

11. Learned counsel appearing for the revisionist has also argued that it is well settled proposition of law that if the driver of a vehicle, without taking consent from the owner or without there being any involvement of the owner of the vehicle, commits any crime by the vehicle, the said vehicle cannot be

confiscated and is liable to be released in favour of the registered owner of the vehicle by putting appropriate conditions for such release.

12. Learned counsel appearing for the revisionist has vehemently argued that the Collector, Gorakhpur, while passing the order dated 11.03.2024 under Section 6-A of the Act of 1955 has not considered that there is no allegation against the revisionist in regard to her involvement in the crime in question in any manner, whatsoever, then how her Tanker bearing Registration No. UP-53-DT-4348 can be confiscated on the pretext of the crime committed by other persons. It has further been argued that the aforesaid vital aspect of the matter has also not been considered by the appellate authority while rejecting the appeal filed by the revisionist, vide judgment and order dated 16.05.2024 .

13. Learned counsel appearing for the revisionist has lastly argued that since there is no involvement of the revisionist in the crime in question and admittedly, she is the registered owner of the Tanker bearing Registration No. UP-53-DT-4348, the orders impugned in this criminal revision are liable to be set aside with a direction to the competent authority and the jurisdictional court to release the Tanker in question, forthwith.

14. On the other hand, learned Additional Government Advocate appearing for the State and Sri Pramod Kumar Rai, learned counsel appearing for Opposite Party No.5 have opposed this criminal revision but could not point out any involvement of the revisionist in the crime in question. They also could not satisfy the Court that when there is no allegation against the

revisionist regarding her connection in the crime in question and she is the registered owner of the Tanker bearing Registration No. UP-53-DT-4348, then how the said Tanker can be confiscated in favour of the State.

15. I have considered the rival arguments advanced by the learned counsels appearing for the parties and have perused the documents annexed with this criminal revision.

16. I find that the police of the Police Station Chauri Chaura, District Gorakhpur had registered a criminal case bearing Case Crime No.404/2023 under Sections 41, 411, 413, 414, 420, 467, 468 and 120-B I.P.C. and later on, Section 3/7 of the Act of 1955 had been added in the said criminal case. The police in the aforesaid criminal case has claimed that the accused, while trying to illegally sell the diesel from three Tankers bearing Registration No.UP-52-F-9805, UP-53-DT-4348, UP-52-T-2705 have been arrested on the spot along with two other vehicles and other material. The police in the aforesaid circumstances seized the vehicles found on the spot including the revisionist's Tanker bearing Registration No. UP-53-DT-4348

17. It is of utmost importance to take note of the fact that in the entire criminal case, there is no allegation against the revisionist that in any manner, she was involved in the crime in question or her driver indulged in the illegal sale of the diesel on the instructions of the revisionist. The police did not find any material to connect the revisionist with the crime in question and therefore, she has not been made accused for the crime.

18. Since the revisionist is the registered owner of the Tanker bearing Registration No. UP-53-DT-4348 and there is no involvement of the revisionist in the crime in question, in any manner whatsoever, she filed an application for release of her vehicle but the said vehicle i.e. Tanker bearing Registration No. UP-53-DT-4348 had been confiscated by the Collector, Gorakhpur under Section 6-A of the Act of 1955 vide order dated 11.03.2024. The appeal filed by the revisionist against the order of confiscation had also been dismissed by the appellate authority vide judgment and order dated 16.05.2024.

19. This Court finds that the Collector, Gorakhpur, while passing the confiscation order dated 11.03.2024, has not taken into account the fact that in the entire criminal case there is no allegation against the revisionist connecting her with the crime in question and she has not been made accused by the police. It has also not been taken into account, as to when the revisionist is not connected in the crime in question and she is the registered owner of the vehicle seized by the police, how the said vehicle can be confiscated in exercise of power under Section 6-A of the Act of 1955. The contents of the judgment and order dated 16.05.2024 passed by the appellate authority also do not disclose that the appellate authority, in any manner, has considered the issue, as to when there is no allegation against the revisionist in the crime in question and she is the registered owner of the Tanker bearing Registration No. UP-53-DT-4348, then how her Tanker can be confiscated in exercise of power under Section 6-A of the Act of 1955.

20. This Court is of the view that if any vehicle is used for committing offence punishable under Section 3/7 of the Act of

1955 and the owner of the vehicle either has instructed his driver to commit the crime or in any manner he is connected with the crime, his vehicle used in the crime can be confiscated in exercise of power under Section 6-A of the Act of 1955 but where there is no allegation against the registered owner of the vehicle used in the crime that he has instructed his driver to commit the crime or in any manner he is connected with the crime, the vehicle of the registered owner can not be confiscated under Section 6-A of the Act of 1955.

21. The peculiar facts of this case categorically reveal that the revisionist is neither accused in the crime in question nor there is any allegation against the revisionist connecting her with the crime in question therefore, once it is established that she is the registered owner of the Tanker bearing Registration No. UP-53-DT-4348, her Tanker cannot be confiscated by the Collector in exercise of power under Section 6-A of the Act of 1955.

22. In view of the aforesaid reasons, this Court is of the view that the orders impugned in this criminal revision are not sustainable in the eyes of law.

23. Accordingly, this criminal revision is allowed. The order dated 11.03.2024 passed by the Collector, Gorakhpur in Case No.2660/2023, Computerized Case No.D202305310002660 (State Vs. Pramod Kumar Yadav and others), to the extent of confiscation of the Tanker bearing Registration No. UP-53-DT-4358, and the order dated 16.05.2024 passed by the learned Special Judge (E.C. Act)/Additional Sessions Judge, Gorakhpur in Criminal Appeal No.29/2024 (Smt. Shakuntala Vs. State of U.P.), are hereby set aside.

24. The competent authority/jurisdictional court is hereby directed to release the Tanker bearing Registration No. UP-53-DT-4348 in favour of the revisionist, forthwith.

Order Date :- 24.4.2025

Salim