

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
CRIMINAL APPELLATE JURISDICTION.**

CRIMINAL APPLICATION NO. 209 OF 2015.

NAVKAR GOSHALA PANJRAPOLE, DHULE.
VERSUS
KASIMKHA HABIBKHA AND ANOTHER.

Appearance =>

Mr. Pramod Patni, Advocate for the Applicant.

Mr. V.H. Dighe, Additional Public Prosecutor for the State of Maharashtra.

CORAM : V.M. DESHPANDE, J.

DATE : 19th JANUARY, 2015.

Per Court :-

By the present Criminal Application the applicant, who claims to be a Social Organization, registered under the Bombay Public Trust Act, wish to retain the live stock, which was seized by the Police in connection with CR No.80/14 registered with Police Station, Shirpur, Dist. Dhule for the offences punishable under Sections 5 and 9 Maharashtra Animal Preservation Act, 1975 and under Sections 11 (1) (gh) (d) (d) (e) of the Prevention of Cruelty to Animals Act, 1960.

[2] Criminal M.A. No.288/2014 was moved by Respondent No.1 before the learned Magistrate and claimed the interim custody of the live stock, which was seized by the Police and which was handed over to the applicant. Said application was allowed by the learned Magistrate, Shirpur on 17th October, 2014. While allowing the said application filed on behalf of

Respondent No.1, the learned Magistrate ordered that Respondent No.1 shall observe the conditions which are incorporated in the said order.

[3] The said order was challenged by the present petitioner by filing Criminal Revision Application before the Sessions Court, Dhule. Said was registered as Criminal Revision Application No.104/2014. The learned Additional Sessions Judge, Dhule vide his Judgment and Order dated 31st December, 2014, dismissed the said Criminal Revision Application. Against the said concurrent findings, present Writ Petition is filed.

[4] Admittedly, the applicant is not owner of the live stock. Present applicant, therefore, has no better claim than the original applicant / Respondent No.1 before learned Magistrate, who has pointed out to the court below about ownership. The learned courts below has observed that the original applicant / Respondent No.1 has filed receipts showing about the purchase of cattles. Further Dhule Agricultural Produce Market Committee has also issued Certificate to show that Respondent No.1 has paid licence fee for purchasing the cattle. Further even from the F.I.R., it is clear that the except suspicion there is no material available on record to show that the cattle's were taken for slaughtering.

[5] No exception can be taken to the well reasoned order passed by the courts below in view of the fact that present applicant never had better claim and title to retain the live stock.

[6] The learned counsel has placed his reliance on the following two cases :-

(i) Jivdaya Pashupakashi Saurakshan and Sanwardhan Sanstha Versus The State of Maharashtra and another, reported in 2010(1), Bombay Cases Reporter, (Crime) 135.

(ii) Unreported decision of this Court dated 29th October, 2004 passed in Writ Petition No.414/2014. [Navkar Goshala, Dhule Versus The State of Maharashtra & Ors.]

[7] Since the present applicant has utterly failed to demonstrate before court that person in whose favour the interim custody is granted by the court below are not the owner of the live stock. In that view of the matter, above two decisions pointed out by the learned counsel are not helpful to him. Upshot of the aforesaid discussion leads me to pass the following order :-

ORDER

(i) Criminal Application is dismissed.

(ii) At this stage, Mr. Pramod Patni, learned counsel prays for staying the present order. Request is rejected for the simple reason that the learned Additional Sessions Judge, Dhule has dismissed the Criminal Revision Application and till today there was no interim order in favour of the present petitioner.

(V.M. DESHPANDE, J.)