

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

Criminal Writ Petition No.1310/14.

Sanjay Narhari Bhokare & Ors.

Versus

The State of Maharashtra & Ors.

Appearance =>

Mr. Rahul Khadap, Advocate for the Petitioners.

Mr. V.H. Dighe, Addl. Public Prosecutor for the State of Maha.

CORAM : V.M. DESHPANDE, J.

DATE : 14th JANUARY, 2015.

Per Court :-

By the present Writ Petition, the petitioners are challenging the Judgment and Order passed by the learned Additional Sessions Judge, Gangakhed passed in Cri.Appeal No.14/14 by which the the appellate court dismissed the Criminal Appeal and confirmed the order of confiscation of Bolero Jeep bearing registration No.MH/24/V/6277, passed by the authorized officer - Assistant Conservator of Forest, Parbhani.

[2] I have heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State of Maharashtra, in detail.

[3] Vehicle in question was found to be used for illegally transporting the sandalwood. On proposal being submitted by the Range Forest Officer, the Assistant Conservator of Forest, Parbhani initiated the proceedings for confiscation. Notices were issued to the petitioners for their appearance in such confiscation proceedings. Petitioner No.1 did not appear

in the enquiry; though the notice was served upon him. Petitioner No.2 appeared and participated in the proceedings.

[4] Authorized Officer - Assistant Conservator of Forest, Parbhani came to the conclusion that there is reason to believe that the vehicle was used for illegally transporting the sandalwood and, therefore, notice in terms of Section 61(A)(3) of Indian Forest Act was issued. The said notice of confiscation was served upon Petitioner No.1. The Criminal Appeal was carried before the appellate court.

[5] The order passed by the authorized officer dated 15th April, 2014 shows that the notice was issued to the petitioner, who is registered owner of the vehicle however, he did not appear. The witnesses were examined. Petitioner No.2, who was driver of the vehicle at the relevant time, has admitted that he was carrying sandalwood in the vehicle and was not having the transit permit.

[6] The learned lower appellate court has correctly reached to the conclusion that the statement of petitioner No.2 is not statement during the course of investigation, therefore, it is not hit by Section/s 25 and 26 of the Indian Evidence Act.

[7] The learned lower appellate court has bestowed thoughtful consideration on every aspects of the matter. Further petitioner No.1 could not gave any explanation as to why he did not participate in the proceedings. Even during the course of hearing of the present Writ Petition, opportunity was given to him as to why he was unable to file his reply and participate in the proceedings. The only reply that was given was that petitioner No.1 was having some personal difficulty.

[8] Upon perusal of the order impugned, it is clear that the petitioners have failed to point out any case warranting interference in the writ jurisdiction. Hence, Writ Petition is summarily rejected.

(V.M. DESHPANDE, J.)