

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

CRI. WRIT PETITION NO. 1299 OF 2014

Authorized Officer and Assistant Conservator
of Forest, Kolhapur Division, Kolhapur & Anr. ... Petitioners.

V/s.

Shri Jayram Bhagoji Lambore & Anr. ... Respondents.

Ms. S. V. Gajare, APP for the Petitioners.

Ms. Vallani Jathar i/by Mr. Dhairsheel Sutar, Advocate for
Respondent No.1.

CORAM : A. V. NIRGUDE, J.

DATED : 23rd NOVEMBER, 2015

P.C. :

1 The State of Maharashtra has filed this writ petition, challenging the judgment and order dated 27th July, 2012 passed by the learned Sessions Judge, Kolhapur in Criminal Appeal No. 204 of 2011. The facts leading to this litigation, in short, can be stated as under :

2 On 13.12.2010, Forest Guard and Range Forest Officer stopped a 'Pick Up Van' which belonged to the Respondent No.1. They noticed that the van was loaded with 16 babul logs. They seized the logs as well as the vehicle and initiated a criminal proceedings under section 26 of the Indian

Forest Act, 1927 against the driver and other occupants of the Van. After giving notice to the respondent owner, utilizing powers under section 61-A, the Forest Officer ordered confiscation of the van. All along, the respondent owner came with a case that he had no knowledge that the van would be utilized for carrying forest produce illegally. He stated before the Forest Officer that his driver unauthorizedly used his van for committing the offence. Despite of this, the Forest Officer observed in his order that the respondent-owner had not taken 'necessary care' for preventing his driver from using his van for illegal purpose. The order passed by the Forest Officer was challenged before the learned Sessions Judge, Kolhapur, as stated above, the appeal was allowed and the order was set aside.

3 The learned Sessions Judge held that the respondent owner could not prove clearly that the van was used without his knowledge and connivance. As per sub-section (2) of section 61-B, owner of such vehicle is given an opportunity to show that offence was committed without his connivance and knowledge. If he proves such fact, the order of confiscation cannot be passed. For this reason, the appeal was allowed. There is nothing on record to show that the observations made by the learned Sessions Judge are incorrect. The learned APP took me through the statement of the accused as well as the respondent, in which, respondent-owner clearly stated that he

had no knowledge that his driver, the accused in the case would utilize the vehicle of carrying / transporting unauthorizedly the forest produce.

4 There is no merit in the petition. It is dismissed.

(A.V.NIRGUDE,J.)

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