

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE**

CRIMINAL WRIT PETITION NO.4894 OF 2014

Shri.Shaikh Altaf Kutbuddin ... **Petitioner**

V/s.

The State of Maharashtra & Ors. ... **Respondents**

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Mr.Ejaaz Noormohammad Shaikh, Advocate for the Petitioner.

Mr.Ajay Patil, APP for the Respondent/State.

Mr.P.B.Shah i/b. Mr.K.P.Shah, Advocate for the Respondent No.2.

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CORAM : M.L.TAHALIYANI J.

DATED : 12TH FEBRUARY, 2015

P.C.

1. Heard Mr.Shaikh - the learned counsel for the petitioner, learned Mr.Patil - Additional Public Prosecutor for the respondent/State and also Mr.Shah - the learned counsel for the respondent No.2.

2. The issue, which has arisen for consideration is as to whether the petitioner, who has purchased cattle from APMC Market, Sinnar and was transporting them to Malegaon, is entitled to possess the same or the respondent No.2 - Shri.Jeevdaya Mandal, Sangamner (Panjarpol) is entitled to possess the said cattle.

3. An offence under section 11(1)(d) & (e) and other sections of Prevention of Cruelty to Animals Act, 1960 has been registered against one Mr.Mohammad Yusuf Abdul Aziz Ansari and Mr.Tambe, who were transporting 17 cattle in a lorry. Son of the registered owner of lorry has also been made accused by the police. It is alleged that the

cattle, were being carried to Malegaon for slaughtering. The petitioner claims to be owner of 11 cattle out of 17 cattle seized by the police. It is his case that he is not a butcher and that he is a trader in cattle. It is submitted that he has a place to keep the cattle in a safe and hygienic condition at Malegaon. The learned advocate for respondent, however, strongly disputes the claim of the petitioner and submits that the petitioner had purchased 11 cattle without having any license for trading in cattle and that, the cattle were being carried in a lorry by putting string in their nostrils, which amounts to serious kind of cruelty to animal.

4. After hearing both the sides, I feel that, in the circumstances of the case, particularly when police have not been able to tell the Court who is the owner of the remaining six cattle and who put additional six cattle in the lorry, it is just and proper that case should go for trial and trial Court shall decide as to who put the cattle in such condition in the lorry. The issue in respect of the custody obviously be decided after conclusion of the trial by the learned Magistrate.

5. It is, therefore, directed that the trial of the Summary Criminal Case No.947 of 2014 shall be expedited and shall be completed within the period of two weeks. The learned Magistrate shall issue summons to the accused returnable on **16th February 2015**, so that case can be heard from 16th February, 2015 onwards.

6. The petition, accordingly, stands disposed of.

JUDGE