

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Appeal No. 309/2001
(State of Maharashtra Vs. Raju Ramchandra Jadhav and others)

Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's
Orders.

Shri P. A. Gode, Advocate for the appellant.

Shri M. A. Vishwarupe, Advocate for the respondents.

CORAM : A.B.Chaudhari &
P.N. Deshmukh, JJ.
DATE : March 3, 2015.

Heard the learned counsel for the rival parties.

By the present appeal, the appellant-State of Maharashtra through Forest Department had challenged the judgment and order dated 6th June, 2001 in Criminal Case No.21/1999 that too only operative part para no.3 in the judgment.

The learned counsel for the appellant submitted that the impugned judgment and order made by the learned JMFC, Darwha, is illegal and the order of the acquittal of the accused persons is not at all justified.

We do not agree. Hence, we dismiss the appeal insofar as the appeal against acquittal against respondent nos.1 to 5 is concerned. The next question is about the operative part no.3 of the impugned judgment and order which reads thus:-

“3. The seized vehicle Tempo Trax No.MH-24-A/7528 be delivered to it's registered owner and remaining seized property be confiscated to State, after appeal period is over.”

The question whether the trial Magistrate has power to order of disposal of property upon final disposal of the criminal case qua Forest Act is no more res integra in the light of the Division Bench judgment in the case of **Range Forest Officer And Anr. vs Sahebrao Sampatrao Ningot reported in 2003 (4) MhLJ 71.**

Following the aforesaid Division Bench judgment of this Court, we hold that operative part of para no.3 will have to be set aside. In the result, we make the following order:-

Order

- (i) Criminal Appeal No.309/2001 is partly allowed.
- (ii) The acquittal of respondent nos. 1 to 5 made by JMFC, Darwha on 6.9.2001 in Regular Criminal case no.21/199 is affirmed.
- (iii) The operative part no.3 quoted above, is set aside.
- (iv) Liberty is given to the appellants to dispose of the jeep as it is in worst condition.

JUDGE

JUDGE

Ambulkar