

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

Criminal Writ Petition No.232 of 2015

(Chandanlal Surajlal Jaiswal

vs.

The State of Maharashtra, through Assistant Forest Officer, Pusad, Dist. Yavatmal.)

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

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Court's or Judge's Orders

Mr. Mahesh Rai, Advocate for the Petitioner.

Mr. P.A. Gode, Advocate for the Respondent.

CORAM : B.P. DHARMADHIKARI AND
P.N. DESHMUKH, JJ.

DATE : JULY 2, 2015.

Heard Mr. Rai, learned Counsel for petitioner-truck owner and Mr. Gode, learned Counsel for respondent.

Submission of Mr. Rai, learned Counsel for petitioner is, as order of seizure of truck has been set aside by Additional Sessions Judge, Pusad in an appeal under Section 61B of the Forest Act on 14th February, 2014, refusal of Forest Department to release truck to him is unsustainable.

Mr. Gode, learned Counsel for respondent, on the other hand, submits that seizure confiscation are independent of the criminal prosecution, which is pending before Judicial Magistrate First Class for various offence including an offence under Section 379 of the Indian Penal Code. He contends that as the trial is still pending, petitioner has to approach that Court and obtain suitable order of release of truck in his favour on Supratnama.

Learned Counsel Mr. Rai in reply disputes this. He invites our attention to the arguments of respondent/State, as contained in paragraph 7 of the judgment reported at 2001(10) JT 180 in the matter of State of Goa vs. Devanand Shrikant Naik.

The seizure of a vehicle involved in forest offence in terms of the Forest Act attains finality after order of its confiscation is passed and thereafter the vehicle vests in State Government. The ultimate acquittal of accused in criminal trial also cannot automatically upset such vesting. Thus, merely because order of confiscation is set aside by Sessions Court that does not mean that the requirement of producing that vehicle as an evidence during trial of forest offence or offence under Section 379 of the Indian Penal Code before the Court of Judicial Magistrate First Class is dispensed with.

We, therefore, find respondent justified in submitting that petitioner has to approach the Court of Judicial Magistrate First Class, Pusad and obtain of an order of release of truck on Supratnama.

In fact, we also find that petitioner has already moved such application on 21/06/2014 before the Court of Magistrate at Pusad. We also note that during argument, learned Counsel Mr. Rai has stated that petitioner may withdraw that application, as it has been filed mistakenly.

However, we find that said application has been rightly moved. We, therefore, direct the Court of Judicial Magistrate First Class, Pusad to consider and decide that application in accordance with law within next two months.

With these directions, writ petition is disposed of.
No costs.

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JUDGE

JUDGE