

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL REVISION No. 602 OF 2016

Martand Singh S/o Shri Santosh Kumar Singh Aged About 23 Years Power Of Attorney Holder Of The Vehicle, R/o 9th Batalian, Behind Police Welfare Petrol Pump, 10/50, P.S. & District Reeva, Madhya Pradesh.

---- Applicant

Versus

State Of Chhattisgarh Through S.H.O. Of The Police Station Saria, District Raigarh, Chhattisgarh.

.... Respondent

For Applicant	:	Mr. Abhishek Saraf, Advocate.
For Respondent-State	:	Mr. U.K.S. Chandel, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

01.07.2016

1. The present Revision under Section 397 read with Section 401 of CrPC has been filed challenging the order dated 17.06.2016 passed by the Special Judge (N.D.P.S. Act) District – Raigarh in Special Case No. 12/2016 wherein an application for release of new sold vehicle Mahindra Max Pick Up, Chasis No. MA1ZT2GLKF1B23574 and Engine No. GLF1B66327, which was seized in the course of investigation for the offence punishable under Section 20 (B) of the N.D.P.S. Act, on Supurdnama was rejected.
2. The case in nutshell is that one Pushpendra Dwivedi along with Rohit Tiwari were found transporting 195 kg of canabbis on 11.07.2015. The Police authorities arrested them and also seized the vehicle and a case under Section 20 (B) of N.D.P.S. Act was registered against them. The matter is pending before the Special Judge (N.D.P.S. Act) Raigarh registered as Special Case No. 12/2016.

3. In the proceedings of the Special Case the present Applicant projected himself as power of attorney holder on behalf of the original owner of the vehicle Santosh Singh and moved an application under Section 451 of the Cr.P.C. for release of the said vehicle which the Court below vide its order dated 17.06.2016 has rejected, leading to the filing of the present Revision Petition.

4. A perusal of the record shows that the actual owner namely Santosh Singh has not moved this present application for release of the seized vehicle. It is said that he has executed a power of attorney in favour of the present Applicant authorizing him the complete responsibility of the newly sold vehicle Mahindra Max Pick Up, Chasis No. MA1ZT2GLKF1B23574 and Engine No. GLF1B66327. Further it appears that it is also the case of the present Applicant that in furtherance to the power of attorney, he in turn entered a hire purchase agreement with the accused Rohit Tiwari. It is said that after execution of said hire purchase agreement with the accused Rohit Tiwari the incident took place on 11.07.2015 and therefore the present Applicant moved an application under Section 451 of Cr.P.C. before the Court below for release of the seized vehicle. According to the present Applicant the Court below in a mechanical way rejected the said application without any proper application of mind and that the present Applicant being the power of attorney holder himself in respect of the vehicle is entitled to move application for release of the same and the Court below taking into consideration the vehicle is lying idle with the Respondent since almost one year therefore it ought to have considered the application for release of the vehicle on Supurdnama.

5. Counsel for the State opposes the claim of the Petitioner submitting that the nature of offence said to have been committed is quite serious in

nature and that the impugned order rejecting the Applicant's application for release of the seized vehicle on Supurdnama does not warrant any interference by this Court as the reasons assigned for rejecting the application are just and proper.

6. Having considered the impugned order passed by the Court below and also taking note of the fact that the present Applicant is not the actual owner of the said vehicle and that he is acting as a power of attorney holder, this Court is of the opinion that taking into consideration the nature of the offence in which the vehicle was involved and the fact that there are couple of agreements in respect of the vehicle being transferred from the actual owner to the accused persons this Court is not inclined to entertain the present Revision Petition therefore order passed by the Court below does not warrant any interference at this juncture.

7. Accordingly, the Revision Petition being devoid of merit, the same is rejected.

Sd/-

(P. Sam Koshy)
Judge