NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL MISC. PETITION NO. 849 OF 2015

Tillu Sahu S/o Dulari Sahu, aged about 22 years, Resident of Village Jhalpha (wrongly mentione Salfa in application and orders), PS Hirri, District Mungeli, Chhattisgarh (District Bilaspur CG).

… Petitioner

Versus

State of Chhattisgarh through the Police Station Hirri, District Bilaspur (Now District Mungeli, CG).

… Respondent

For Petitioner	:	Shri Vishnu Kosta, Advocate.
For Respondent/State	:	Shri B. Gopa Kumar, Deputy Advocate General.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

26/07/2016

1. The present petition under Section 482 CrPC has been preferred by the petitioner questioning the illegality of the order dated 04.04.2015 passed by the Additional Sessions Judge, Mungeli, in Criminal Revision No.H-6/2015. By the said order, the revisional court has affirmed the order dated 25.02.2015 passed by the Chief Judicial Magistrate, Mungeli in Criminal Case No.111/2015 rejecting the application under Section 451 CrPC filed by the petitioner for grant of custody of the property seized by the police authorities.

2. Facts in nutshell necessary for disposal of this petition are that, on the midnight of 2nd October 2014, the police authorities at Hirri seized three Trucks loaded with iron ore. It was found that these Trucks were stolen trucks. An offence under Section 379 IPC was

registered. The present petitioner along with five others persons were made accused in the said case. They were arrested and subsequently released on bail.

3. Subsequently, it is said that the petitioner who claims to be the owner of the iron ore as also was the partner of the Coal Depot where the trucks were found, had made several efforts before the competent authority for releasing the iron ore on Supurdnama which was turned down and finally the petitioner moved an application under Section 451 CrPC on 23.02.2015 before the CJM, Mungeli which got rejected on 25.02.2015. Aggrieved by the said order of CJM dated 25.02.2015, the petitioner had preferred a revision being Criminal Revision No.H-6/2015 and the revisional court also vide order dated 04.04.2015 rejected the same holding that the petitioner has not made out a strong case for interference with the order passed by the CJM, Mungeli by refusing to release the goods on Supurdnama. Assailing these two orders, the petitioner has filed this petition under Section 482 CrPC.

4. Learned counsel appearing for the petitioner submits that the petitioner had submitted all relevant documents pertaining to the vehicle, purchase of iron ore and the permit for transportation. In addition, all other documents were also furnished before the police authorities through a letter issued by the lawyer on 26.10.2014, yet the authorities have not appreciated the same inasmuch as they have not considered the documents in its proper perspective and in a mechanical manner has rejected the application under Section

451 CrPC. It is next submitted that the revisional court has erred in not considering these documents and has decided the revision totally brushing aside these documents which is per se illegal and bad in law.

5. It is also submitted that once the petitioner has produced the documents pertaining to the ownership of the iron ore by producing documents from the seller and further the petitioner also having furnished the transport permit being provided by the Transport Department in his favour showing the weighting slip of the weight of the Truck and material loaded in the truck, there was no reason for the court below to disbelieve the same and in not releasing the said articles to the petitioner on conditions so fixed on Supurdnama. It is also submitted that as the said articles are lying in an open place at police station, by efflux of time it would lose its quality and secondly there is all possibility of theft of the said articles, and therefore, prayed for the release of the said articles on Supurdnama. He further submits that the Trucks were already released on Supurdnama.

6. Learned counsel appearing for the State however opposes the petition and took the court through both the orders whereby in a very categorical terms both the courts below have found that the petitioner at the first instance had not been able to show any right, title and documents pertaining to the iron ore seized by the police authorities. State counsel further referred to the order of revisional court wherein the finding of the revisional court is that immediately

after the articles were seized by the police authorities, they had issued a notice to the petitioner to establish his ownership over the iron ore which was loaded on the trucks, to which the endorsement was given by the petitioner to the effect that he does not have any document in respect of the ownership, title and purchase of iron ore. State counsel further took the court through the orders of court below where there are findings of fact that the petitioner at the relevant point of time did not produce any document to prove his title and ownership over the iron ore seized. The documents which have now been relied upon by the petitioner appears to have been all forged and fabricated document prepared only for the purpose of getting the articles released on Supurdnama.

7. Having considered the rival contentions put forth on either side and on perusal of record what is an admitted position is the fact that on 02.10.2014 three trucks were seized from Gurpreet Coal Depot at Hirri, Bilaspur. These trucks were said to be stolen trucks and found loaded with iron ore. Prima-facie the petitioner has not been able to show that he had proper permit for storing iron ore at Gurpreet coal depot. Since the petitioner claims himself also to be a partner of the said coal depot, he ought to have shown whether the depot has proper documentation for storing iron ore which is not available on record.

8. Secondly, from the perusal of record it clearly establishes the fact that at the first instance itself the police authorities had called upon the petitioner for showing the documents, if any, in respect of the

iron ore which is claimed to be of his own, but, to the notice which was sent by the police authorities, there was an endorsement made by the petitioner to the effect that he does not have any document whatsoever pertaining to the said iron ore.

9. Further, from the record it also reflects that there is also discrepancy in so far as the exact quantity of iron ore claimed to be belonging to the petitioner for the reason that CJM while passing the order dated 25.02.2015 has said that the document enclosed for release of the article at the first instance before the CJM was earlier quantified as 29.950 metric tonne whereas, the seized articles was 69.540 metric tonne. The court below found the documents which were attached along with the application under Section 451 CrPC also to be suspicious, and therefore, had rejected the same. Even otherwise, if we peruse the order of the revisional court we found that the finding of the revisional court also is that the document which have been filed by the petitioner are suspicious in nature and appears to have been got prepared only for the purpose of using the same for getting the seized article released on Supurdnama.

10. On perusal of these documents it would show serious doubt for the reason that looking to the document pertaining to truck No. CG-10-R- 0232, it would reflect that the transit permit for the said vehicle was issued on 25.09.2014 from Nagpur. The weighting slip in respect of the said vehicle also is of the said date i.e. 25.09.2014 issued from one weighting bridge at Balaghat. Likewise, the

document showing purchase of said iron ore also is of the same day from Waraseoni, District Balaghat. It is quite impossible to get all these three documents to be issued on the same day. Further, creating doubt is the document issued by the road lines i.e. the transport contractor which again was issued on the same day from Amgaon Road, Gondia and which again is a different place and all these documents being issued on the same day from different places itself gives great element of doubt. Likewise, so far as other vehicles are concerned, the documents pertaining to these vehicles also have been issued from different place on the same date giving rise to doubt.

11. Thus, for the reasons that there are large scale discrepancies in the document and the documents relied upon by the petitioner being doubtful and suspicious, this court is not inclined to interfere with the orders passed by the two courts below.

12. Accordingly, the petition being devoid of merit is liable to be and is hereby dismissed.

Sd/-
(P. Sam Koshy)
Judge

inder