

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL MISC. PETITION NO. 1115 OF 2016

Vidhyadhar Lahare, S/o Bhagat Ram Lahare, aged about 42 years, R/o Village Bhathagaon, Kosire, P.S. Kosire, Tahsil Sarangarh, District Raigarh (C.G.)

... Petitioner

Versus

State of Chhattisgarh, through Station House Officer, Police Station Dabhara, District Janjgir-Champa (C.G.)

... Respondent

For Petitioner	:	Mr. Akhtar Hussain, Advocate.
For Respondent-State	:	Mr. V.K. Netam, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

08/12/2016

1. The present petition under Section 482 of CrPC has been preferred by the Petitioner against the order dated 22.7.2016 passed by the First Additional Sessions Judge, Sakti, District Janjgir-Champa in Criminal Revision No. 19 of 2016, whereby the order dated 14.6.2016 passed by the Judicial Magistrate First Class, Dabhara in unregistered Misc. Criminal Case of 2016 rejecting the application under Section 457 of CrPC has been affirmed.

2. According to the Petitioner, he is not an accused in the case. That the vehicle i.e., TATA Pick-up, bearing Registration No. CG13-UJ/2404, was seized by the police authorities on 24.5.2016 which was alleged to have been found to be illegally carrying cattle from one place to another and therefore Crime No. 169 of 2016 was registered at Police Station Dabhara for the offence punishable under Sections 4 & 6 of the Chhattisgarh Agriculture Cattle Preservation Act ('the Act' in short).

3. The Petitioner had moved an application under Section 457 of CrPC before the Trial Court for release of the seized vehicle. However, the Trial Court initially vide its order dated 14.6.2016 rejected the said application as there was a bar under the Act for release of the seized vehicle within a period of six months from the date of incident. Against the said order of the Trial Court, the Petitioner preferred a criminal revision, and taking into consideration the statutory provisions of law the Revisional Court also rejected the said criminal revision upholding the order of the Trial Court, leading to the filing of the present petition under Section 482 of CrPC.

4. Shri Akhtar Hussain, Counsel for the Petitioner, submits that he has now filed the present petition under Section 482 of CrPC so that this Court may grant the relief of release of the vehicle as the period of six months has in between lapsed and therefore there is no impediment any further for release of the seized vehicle.

5. Counsel for the State, Shri Netam, however opposes the petition on the ground that since the application under Section 457 of CrPC of the Petitioner was rejected only on the ground that it was preferred within the period of six months when during which time the vehicle could not have been released, the Petitioner should be directed to approach the Trial Court by moving a fresh application in light of the changed circumstances.

6. In the opinion of this Court, the objection raised by the Counsel for the State appears to be fair and justified. Therefore this Court is of the view that at this juncture it does not seem proper for invoking its extraordinary jurisdiction under Section 482 of CrPC.

7. Accordingly, the Petitioner is directed to approach the Trial Court by moving a fresh application under Section 457 of CrPC and in the event if such application is moved by the Petitioner the concerned Court below is

expected to consider the case of the Petitioner on its merits as expeditiously as possible keeping in view the decisions rendered by the Supreme Court in the case of **Sunderbhai Ambalal Desai Vs. State of Gujrat, 2002 (10) SCC 283**, as also the case of **Multani Hanifbhai Kalubhai Vs. State of Gujrat & Another, 2013 (3) SCC 240**.

8. With the aforesaid observations, the Criminal Misc. Petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

/sharad/