

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1387 OF 2015

Tukaram Dilip Jondhale,
Age 27 years, Occ. Agri.
and Driver, r/o. Tagadgaon,
Tq. Georai, Dist. Beed ..Petitioner

Versus

The State of Maharashtra,
Through Police Station,
Talwada, Dist.Beed ..Respondent

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Mr.S.J.Salunke, advocate for petitioner

Mr.R.V.Davalkar, APP for respondents - State

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CORAM : M.T. JOSHI, J.
DATE : JANUARY 18, 2016

ORAL ORDER :

Heard both sides.

2] Aggrieved by the order dated 9th September, 2015 passed by learned Judicial Magistrate F.C., Court No.2, Georai, Dist Beed, below Exhibits 1 and 6 in Misc. Cri. Application No.373 of 2015, present Writ Petition is preferred.

3] The vehicles of the present petitioner were involved in certain crime of taking away sand without any authority. Crime No. 96 of 2005 for the offence punishable under Section 379 of the Indian Penal Code, was registered. During pendency of said proceedings, present petitioner had applied for release of the vehicles from the custody of the Investigating Officer. Said application came to be allowed, however, the vehicles were not released.

4] Aggrieved by non-release of the vehicles, applications came to be filed by the present petitioner before learned Judicial Magistrate F.C. According to the petitioner, the vehicles were required to be released in view of the order passed by learned Judicial Magistrate F.C. and therefore, he wanted that for the disobedience, the concerned police officials should be punished. However, those applications came to be rejected by

learned Judicial Magistrate F.C. Hence, the present Writ Petition.

5] According to the respondent – State, as per Section 48(7)(8) of the Maharashtra Land Revenue Code, the Tahsildar has imposed penalty against the vehicles and therefore, the Investigating Officer could not release the vehicles.

6] From the record, it appears that on 19th August, 2005, Tahsildar, Georai, has passed order in exercise of the powers conferred upon him under Section 48(7)(8) of the Maharashtra Land Revenue Code whereunder, against the vehicles, penalty at the rate of five times of the value of the sand, was imposed and it was directed that said amount be deposited with the Government.

7] Upon hearing both sides, in my view, the concerned Investigating Officer or the police

officials could not have released the vehicles in view of the order of the Tahsildar. The impugned order passed by learned Judicial Magistrate F.C., therefore, cannot be faulted with.

8] Present Criminal Writ Petition is, therefore, dismissed.

9] The petitioner would be at liberty to challenge the order of the Tahsildar as per the due procedure of law.

[M.T. JOSHI, J.]

kbp