

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 398 OF 2002

The State of Maharashtra

... Petitioner
(Ori. Respondent)

vs.

1) Sau. Nandini Jairam Katake
2) Shri Satish Meghji Shah
Both resident at & Post Wangani
Tal. Ambernath, Dist. Thane

... Respondents
(Ori. Appellants)

Mr. Deepak Thakare, Additional Public Prosecutor for the State.
Mr. Sandesh Patil, Advocate for respondent No.2.

Coram : Smt. R. P. SondurBaldota, J.

Date : 11th February, 2016.

JUDGMENT :

1. This petition by the State challenges the order dated 13th September, 2001 passed by the learned Sessions Judge, Thane, allowing Criminal Appeal No. 29 of 2001 filed by respondents No.1 and 2 and setting aside the order of confiscation of vehicle, Tata Sumo Jeep bearing registration No. MH-04/AA-1432. The impugned order directs that the vehicle be returned to respondent No.2, who is it's owner and was in possession of it on 15th October, 2000.

2. The brief facts of the case are that :

On 15th October, 2000, Forest Guard Bhoranda along with Vanrakshak and Vanpal from Pivali was on duty near Vandra Ashramshala. At about 9 pm. they noticed the vehicle, in question, and one motorcycle bearing registration No.MH-03/EP-104 standing near Vandra Ashramshala. There were four persons near the jeep and 10 to 15 persons moving towards the jeep from village Vandra. On noticing the Forest-guard, Vanrakshak and Vanpal, the persons standing near the jeep removed three pieces of teak-wood from the jeep and tried to throw away. When they were prevented from throwing away the wood, they issued threats and there was also scuffle between both the sides. Then Forest Crime No.33 of 2000-2001 was registered. The Forest Officer made enquires about jeep and motorcycle and sought the presence of the owner i.e. respondent No.1 and respondent No.2. Respondent No.1 appeared before the Officer along with the jeep and driver. She made a statement that she had agreed to sell the vehicle to respondent No.2 and on the date of the incident, the vehicle was in possession of respondent No.2. It was further revealed that on the date of the incident one Suresh Vithal Naik and Sunil Narayan Pawar, both residents of Wangani along with Ramchandra Utekar had taken the jeep on hire from respondent No.2. Consequently, both the respondents were not aware that the driver of the vehicle had used jeep for illegal transport of teak-wood from the forest. As

per the statement of respondent No.2 Sunil Pawar and Ramchandra Utekar of Wangani had met Suresh Naik, the driver of the vehicle for hiring the vehicle to go to Aatgaon for meeting their acquaintance. The hire charges of Rs.900/- were fixed and the vehicle was permitted to be taken by the hirers. Thus, it is obvious from the record that respondents No.1 and 2 were not aware that the vehicle was likely to be used for committing an offence.

3. The learned Judge has allowed the appeal with the observations that it can be gathered safely that vehicle was not used with the knowledge and the connivance of the owner for illegally carrying of the produce of the forest. The order of the Authorised Officer confirms the observations of the learned District Judge. Thus, there is no infirmity in the impugned order. Hence, the writ petition is dismissed.

[Smt. R. P. SondurBaldota, J.]