

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-M 15641 of 2016(O&M)

Date of decision: 23.05.2016

Shakar Ali

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.P.S.Jammu, Advocate for the petitioner
Mr.Naveen Sheoran, DAG Haryana
Mr.L.M.Gulati, Advocate for the complainant

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Impugned in the present petition is the order dated 11.4.2016 (Annexure P3), passed by the learned Judicial Magistrate 1st Class, Dabwali, vide which release of 11 cows and 5 calf being carried in Truck bearing registration number UP-17T-7608 pertaining to FIR No.70 dated 21.3.2016 registered at police station Kalanwali under Section 11 of the Prevention of Animal Cruelty Act, 1960 and Sections 3 and 5 of Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 (n short, 'HGSG Act') was dismissed. Also impugned is the order dated 28.4.2016, passed by learned Additional Sessions Judge, Sirsa, vide which revision against the said order was dismissed.

I have heard learned counsel for the parties and have also carefully gone through the file.

Reply in the form of status report filed in Court on behalf of the State is taken on record, wherein it is stated that the cows and calf were purchased by the petitioner from Dabwali/ Kalanwali, which is bordering Punjab and Haryana. It was stated that the cow in question was Milch animals, therefore, Sections 3 and 5 of HGSG Act was deleted. However, it is asserted that said 16 animals were loaded in a small truck, which casts cruelty to the animals. At present the said cows and calf are being kept in Gaushala of village Kalanwali. It is also not disputed that in the Gaushala one cow and three calf have died. The stand of State is that it died due to cruelty committed upon the animals during transportation whereas according to the petitioner these died due to the negligence in the Gaushala.

I am of the view that the petitioner belongs to Shamli in Uttar Pradesh. He travelled a long way which is nearly 360 kms to Dabwali/ Kalanwali to purchase the said animals. Admittedly, these were loaded beyond the capacity of the truck and beyond permissible limit. The matter is under trial. In similar circumstances, Hon'ble Supreme Court in State of U.P. vs. Mustakeem and others, 2002 (sup) AcrC 272, did not allow the superdari of the animals.

In the circumstances, no ground to interfere in the impugned orders. Dismissed.

However, the State is directed that the said animals shall be well fed and proper care be also taken of their health. The trial Court is also directed to expedite the trial and dispose of the same

preferably within six months. After the conclusion of the trial, the trial Court can always pass an order about the custody of the animals.

However, the learned State counsel has no objection if the Truck bearing registration number UP-17T-7608 is released on superdari. Therefore, Truck bearing registration number UP-17T-7608 is ordered to be released on superdari on petitioner's furnishing superdari bond in the sum of Rs.10,00,000/-with one surety of the like amount subject to the conditions as may be imposed by the trial Court.

23.05.2016*gk***(Kuldip Singh)
Judge**