

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-3164 of 2016
Date of Decision: May 03, 2016**

State of Haryana

...Petitioner

Versus

Juber

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Sandeep Moudgil, Addl, A.G and
Mr. Munish Sharma, AAG, Haryana.
for the petitioner.

Mr. Rajesh Lamba, Advocate
for the respondent.

FATEH DEEP SINGH, J.

Learned counsel for the respondent does not want to
file reply to the petition.

A case by way of FIR No.157 dated 22.12.2015 was
registered with Police Station, Rojka Meo, District Mewat, under
Sections 336, 279 120 IPC read with Sections 11,59,60 of Prevention of
Cruelty to Animals Act, 1960 (for short, 'the Act') in which the accused
respondent-Juber moved an application seeking superdari and custody
of 12 camels so taken into police possession by the police. Learned
Judicial Magistrate 1st Class, Mewat vide orders dated 08.01.2016
Annexure P/2 allowed the application and ordered that the camels to be
handed over to the applicant/owner. The State preferred a criminal
revision against these findings and the Court of learned Additional
Sessions Judge, Mewat vide judgment dated 20.01.2016 dismissed the
revision upholding the orders of the learned Magistrate. It is against

these findings the petitioner-State has invoked the jurisdiction of this Court in terms of Section 482 Cr.P.C. seeking quashment of these orders.

After going through the arguments so advanced on behalf of the learned counsel for the parties. A bare stand of the State which too stands reflected in the FIR that it was from the custody and possession of the accused/applicant who was taking these 14 camels in vehicle No. HR-74-5049 the police apprehended them. It is further not in any manner put to question that none other than the applicant has come forward to claim custody of the animals. The only ground of the State is to the effect that if the animals are allowed to be kept with the accused there is every likelihood that they may not be treated properly and there may be cruelty towards them and may also be deprived of food and proper living. It is nobody's case as to any act of cruelty upon the animals and the only semblance of allegation that bears out in Annexure P/1 are that 14 camels were badly loaded on the truck. It is subsequent thereto during the course of events, two of the animals are reported to have died, apparently, nothing is suggestive that it was on account of act of the owner and rather it appears to the mind of this Court that it was during their custody by the instrumentality of the State these animals have perished. The question that the animals were ill-treated by the accused/owner can only be appreciated during the course of trial and there is nothing suggestive even in the stand of the State counsel for the revisionist that the owner-respondent is guilty of such remission on earlier occasions. This Court in **CRM-M-2177 of 2016 Anwar vs. State of Haryana** has adequately considered the ambit of provisions of Sections 451 and 452 as well as Section 457 Cr.P.C. and has considered at length such rights of the owner and has held that at pre-stage it would always be proper and appropriate if the animals are

handed over to the owner/possessor. There is nothing to suggest that if the animals are left in the custody of the owner they will be put to further cruelty. Learned Magistrate has rightly held it so and the learned revisional Court has passed a well reasoned judgment considering the each and every aspect of the matter and has clearly held that by virtue of the receipts produced before the Court by the owner/applicant it is established that he has purchased the animals legally and validly from animal fair organised by Municipal Committee Hundon City, District Karoli, Rajasthan. Since there is nothing to prima facie show that the animals were being transported for slaughter further undermines the case of the revisionist and apparently there does not appears to be any apparent contravention of the provisions of the law and the Act at this juncture.

Thus, in view of what has been detailed and discussed above there has been correct appreciation and conclusions drawn by the two Courts below and there being no illegality or impropriety in these findings the same are upheld. In the light of the same, the instant revision petition stands dismissed.

(FATEH DEEP SINGH)
JUDGE

May 03, 2016

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