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

**C.R.R No.2814 of 2016 (O&M)  
Date of Decision : 10.08.2016**

Mainpal

..... Petitioner

Versus

State of Haryana

..... Respondent

**CORAM : HON'BLE MR. JUSTICE AJAY TEWARI**

**\*\*\***

Present : Mr. Sunil K. Nehra, Advocate  
for the petitioner.

**\*\*\***

**AJAY TEWARI, J. (Oral)**

This revision has been filed under Section 482 Cr.P.C.  
against the order of the trial Court declining to release the vehicle on  
superdari in view of the provisions of Section 17 of the Haryana  
Gauvansh Sanrakshan and Gausamvardhan Act, 2015 (hereinafter

referred to as 'the Act, 2015'). Section 17 of the Act, 2015 is as under:-

*“17. (1) Whenever an offence punishable under this Act has been committed, any vehicle used in the commission of such offence shall be liable to be confiscated by a police officer not below the rank of Sub-Inspector or any person authorized in this behalf by the Government.*

*(2) Where any vehicle referred to in sub-section (1) is confiscated in connection with the commission of any offence punishable under this Act, a report about the same, without unreasonable delay, be made by the person seizing it to the competent authority and whether or not a prosecution is instituted for commission of such offence, the competent authority, having jurisdiction over the area where the said vehicle was confiscated, may, if satisfied that the said vehicle was used for commission of offence under this Act, order confiscation of the said vehicle:*

*Provided that before ordering confiscation of the said vehicle, a reasonable opportunity of being heard shall be afforded to the owner of the said vehicle.*

*(3) Whenever any vehicle as referred to in sub-section (1) is confiscated in connection with commission of an offence under this Act then notwithstanding anything contained in any other law for the time being in force, no Court, Tribunal or other authority, except the competent authority, shall have jurisdiction to make order with regard to the*

*possession, delivery, disposal, release of such vehicle.*

*(4) Where the competent authority is of the opinion that it is expedient in public interest that the vehicle, as referred to in sub-section (1), confiscated for commission of offence under this Act be sold by public auction, he may at any time direct it to be sold:*

*Provided that before giving such directions for sale of confiscated vehicle, a reasonable opportunity of being heard shall be afforded to the owner of the said vehicle.*

*(5) Any person aggrieved by an order made by the competent authority under sub-section (2) or sub-section (4) may, within a period of thirty days from the date of such order, prefer an appeal to the Deputy Commissioner of the district concerned.*

*(6) Any order of confiscation made by the competent authority shall not prevent the infliction of any punishment to which the person affected thereby is liable under this Act.”*

Learned counsel has argued that Section 17 of the Act, 2015 is ex-facie unconstitutional.

Be that as it may, the appropriate remedy would be to challenge the validity of the said section before the Constitutional Court.

Consequently, the revision petition is dismissed with liberty to avail

appropriate remedy as per law.

Since the main case has been decided, the pending Criminal Misc. Application, if any, also stands disposed of.

**August 10, 2016**  
*ashish*

**( AJAY TEWARI )**  
**JUDGE**

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No