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HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. (Cr.) No. 316 of 2016**

Manoj Kumar Nirala S/o. Late Lainsdas Nirala, Aged About 54 Years
R/o. S.E.C.L. Colony Chhal, Nawapara, Police Station And Tahsil
Dharamjaigarh, District Raigarh (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through : Secretary, Forest Department, Mahanadi Bhawan, Mantralaya, Capital Complex, New Raipur, District Raipur (Chhattisgarh)
2. Forest Sub Division, Gharghoda, Through : Sub Divisional Officer, Sub Division Gharghoda, District Raigarh (Chhattisgarh)
3. Conservator Of Forest, Bilaspur Circle, Bilaspur, District Bilaspur (Chhattisgarh)
4. Sub Divisional Forest Officer, Gharghoda, Forest Division, Raigarh, District Raigarh (Chhattisgarh)

---- Respondents

For the Petitioner	: Shri Anurag Singh, Advocate on behalf of Shri Manoj Paranjpe, Advocate.
For the Respondents/State	: Shri Neeraj Sharma, Government Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****17.08.2017**

1. Heard.
2. This petition has been brought with a prayer to interfere with the impugned order passed by the Revisional Court and the Authorities below.
3. Learned counsel for the petitioner submits that he is the owner of the vehicle bearing registration No. C.G. 13 Q 0337. The facts of the case are these that on 17.7.2013, the driver of the vehicle Dhanesh Kumar was intercepted by the Forest Guard Kushal Singh and Others in the road

between Kharsia to Dharamjaigarh and it was found that wooden logs were being transported in it. Forest offence was registered immediately and the vehicle was seized. Respondent No.2 – Forest Sub-Division, Gharghoda initiated proceedings for confiscation of the seized vehicle. The petitioner gave his appearance and responded to the proceedings. By order dated 25.8.2014, Respondent No.2 dismissed the claim of the petitioner and passed an order for confiscation of the vehicle.

4. On challenging the aforesaid order in appeal before the Appellate Authority i.e. Conservator of Forest, Bilaspur Circle, the appeal was dismissed vide order dated 6.7.2015. Against the said order, a revision was preferred before the Court of Session Judge, Raigarh by Revision Petition No. 106 of 2016 which was decided on 16.8.2016 by the Fourth Additional Sessions Judge dismissing the revision petition. Hence, this petition.

5. Learned counsel for the petitioner submits that the petitioner is the registered owner of the vehicle. The orders passed by the authorities and the Revisional Court below are erroneous and are not sustainable under the eyes of law. It was a requirement under the provisions of Section 52 of sub-section (5) of the Indian Forest Act, 1927 that any seized article shall not be confiscated, if it is proved that the forest offence was committed by the concerned without the knowledge and without the connivance of the owner of such article, hence it was the burden of the Forest Officers and the Authorities conducting the proceedings for confiscation, to produce evidence to this effect and it is for the officials conducting the proceedings for confiscation to arrive at a finding that the connected forest offence was committed in the knowledge or under the connivance of the petitioner, in

which they have failed. There is no such clear statement of the witness examined for the Forest Department that the forest offence was committed in the knowledge or under the connivance of the petitioner. The petitioner was examined in defence but no question was put to him in this respect in his cross-examination, hence, it was never established that the petitioner himself was involved in the commission of forest offence in any manner. Hence, the order passed by the Competent Authority suffers from this infirmity that no clear finding has been given by the concerned with respect to the provision under Section 52 (5) of the Indian Forest Act and the same has been upheld by the Appellate Authority as well as the Revisional Court below. The seized vehicle has been given on interim custody by the order of this Court passed on 27.1.2017 in this petition. Hence, in conclusion and on the basis of the finding arrived at, this petition is deserves to be allowed and it is allowed. The impugned order and the order of the Forest Authorities for confiscating the seized vehicle are hereby set aside.

6. Accordingly, this petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge