

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No.51 of 2017**

- Santosh Kumar Shukla S/o Shri Shiv Kumar Shukla Aged About 32 Years R/o Bajrang Chowk, G.E. Road, Durg, District Durg, Chhattisgarh.

---- Petitioner

Versus

- State Of Chhattisgarh Through S.H.O. Police Station Dhamda, District - Durg, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri B. P. Singh, Advocate
For Respondent/State	:	Shri Satish Gupta, GA

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****03/03/2017**

Heard.

2. The sole ground raised by the petitioner in this petition that the learned Magistrate has refused to exercise the jurisdiction to grant interim custody of the vehicle alleged to have been seized on commission of forest offence on the ground that the vehicle has been seized in connection with a forest offence, whereas unless intimation as required under Section 52(4)(a) of the Indian Forest Act, 1927(For short" the Act of 1927") (as amended by Madhya Pradesh Amendment Act 25 of 1983) is given, the jurisdiction of the Magistrate is not arrested.

3. Learned counsel for the petitioner submits that the learned revisional Court also did not appreciate the matter from correct perspective of law, because it only relied upon on intimation given by the concerned Police Officer to the District Magistrate, which is not in fulfillment of the legal requirement as contemplated under Section 52(4)(a) of the Act of 1927. Therefore, in these circumstances, the Courts below have

committed serious illegality in exercising the jurisdiction vested under the law.

4. Upon appreciating the aforesaid submission, the issue for determination is confined to enquiry with regard to the fact whether the Magistrate was intimated by the Confiscating Authority as per requirement of Section 52(4) of the Act of 1927. Learned State counsel was granted time to inform the Court regarding correct state of affairs. Today, learned State counsel submits that the information was sent to the District Magistrate and the matter is still under process for being sent to the concerned Magistrate, who has to try the offence. He submits that the P.O.R is likely to be registered by the police official also.

5. Submission made by learned State counsel clearly shows that till date, the application of the petitioner was decided by the Magistrate, there was no intimation as required under Section 52(4) of the Act of 1927 to the Magistrate by the Confiscating Authority of his intention to initiate the confiscation proceedings.

6. In view of above, I am of the considered opinion that the Magistrate had no reason to reject the application as not maintainable. The finding in this regard, recorded by the revisional Court are also incorrect and based on misconstruction of the legal provisions of Section 52 of the Act of 1927.

7. In the result, the petition is allowed and the impugned order is set aside. The matter is remanded back to the Court below for consideration of petitioner's application for grant of custody of the vehicle, on its own merits and the Magistrate shall decide the same treating that there is no bar to consider the petitioner's application for grant of custody of the vehicle.

Sd/-
(Manindra Mohan Shrivastava)
Judge