

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 214 of 2013**

- Nitin Mittal S/o Brijmohan Mittal Aged About 24 Years R/o Gharghoda, Tahsil Gharghoda, Distt. Raigarh C.G.

---- Petitioner**Versus**

1. State Of Chhattisgarh & Ors S/o Through - Forest Department Bilaspur Circle, Bilaspur ,District-Raigarh C.G.
2. Specified Officer Deputy Divisional Forest Officer, Raigarh , Distt. Raigarh C.G.
3. The Appellate Authority And The Conservator Of Forest Bilaspur Circle, Bilaspur, Distt. Bilaspur C.G.

---- Respondents

For Petitioner	:	Shri Manoj Kumar Sinha, Advocate.
For State/respondents	:	Shri Vivek Singhal, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****08/08/2017**

Heard.

1. This petition has been brought under Section 482 of Cr.P.C. praying for exercise of inherent powers to quash the orders passed by the respondents No.2 & 3 confiscating the seized property.
2. It is submitted by the counsel for petitioner that on 8.6.2010 the Forest Management Committee received information about the illegal transportation of teakwood in Maruti Van which was being escorted by three persons riding on motorcycle from Gharghoda, Raigarh. The Forest Officers intercepted the said vehicle and also the riders of motorcycles. On being inquired, they informed that the forest teakwood belonged to one Ajay Mittal. The riders of motorcycle managed to flee from the spot leaving the motorcycle. No registration number was displayed on the seized motorcycle of Hero Honda Company. It is

submitted by the counsel for petitioners that the registration number of Motor Cycle is C.G. 13 4826 and petitioner is the registered owner of the said vehicle. It is further submitted by the counsel for petitioner that confiscation proceeding of seized vehicle was initiated by respondent No.2 and order of confiscation was passed on 24.1.2011. Thereafter, appeal was preferred before the appellate authority (respondent No.3) and the same has been decided by order dated 3.7.2012, upholding the order passed by respondent No.2. A Criminal Revision No.170/2012 was preferred before the Sessions Court, Bilaspur and the 6th Additional Sessions Judge, Bilaspur by order dated 25.10.2012 dismissed the said revision petition.

3. It is submitted by counsel for the petitioner that petitioner is the registered owner of the vehicle seized in connection with the concerned forest offence and there is no evidence on record to suggest that the petitioner had been involved in the offence in any manner, hence, order of confiscation passed by respondent No.2, uphold by respondent No.3 and maintained by the Sessions Court, Bilaspur is erroneous. Prayer has been made to set aside these orders and pass order in favour of the petitioner.
4. Both the parties are heard and perused the document on record.
5. Learned counsel for the State has no objection to the arguments submitted on behalf of the petitioner.
6. It is clear from the contents of the order passed by respondent No.2, the Confiscating Authority, the order of appellate authority (respondent No.3) and the order of the revisional Court below that no forest offence has been registered against the petitioner and neither he has been prosecuted. Further, there is no evidence to show that petitioner was on the spot when the forest product teakwood was being transported in the Omni Van and it is he who was escorting that Van. Hence, conclusion drawn by the Court below appears to be erroneous and needs to be interfered. The requirement of the provision under Forest Act, 1927 is that the vehicle owned by the petitioner was being used for commission of forest offence under his knowledge or by his connivance, does not seem to have been established in any manner. Hence, for these reasons this petition is allowed.
7. The order of the confiscation passed by the respondent No.2 confirmed by the

respondent No.3 and the revisional Court, are hereby set aside. Respondent No.2 is directed to handover the possession of seized vehicle i.e. motorcycle to the petitioner in compliance of this order.

8. Accordingly, the petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
JUDGE

Nisha