

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 59 of 2017

- Smt. Laxmi Devi Shrivastava W/o Shri Sunil Kumar Shrivastava Aged About 37 Years
R/o Sukhbasupara Kunkuri, Police Station & Tahsil Kunkuri District Jashpur,
Chhattisgarh.

---- Petitioner

Versus

1. Forest Circle Officer, Kunkuri Police Station & Tahsil Kunkuri, District Jashpur,
Chhattisgarh.
2. D.F.O. Forest Division Kunkuri, District Jashpur, Chhattisgarh.
3. Cheif Conservator Of Forest Sarguja Forest Circle, Ambikapur, District Sarguja,
Chhattisgarh.
4. State Of Chhattisgarh Through Collector, Ambikapur District Sarguja,
Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Keshav Dewangan, Advocate.
For State/respondents	:	Shri Lav Sharma, Penal Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

24/07/2017

Heard.

1. This petition has been brought under Section 482 of Cr.P.C. with prayer to
exercise of inherent jurisdiction in passing the order for interim relief of the
vehicle bearing registration No.JH-07-D-6038 of the petitioner which has been
confiscated by the respondent No.2.
2. Learned counsel for the petitioner submits that on the night of 21.7.2013, the
vehicle under the registered ownership of the petitioner bearing registration
No.JH-07-D-6038 got stuck in the mud in forest area of Kunkuri. The vehicle
was seized by PS-Kunkuri on 22.7.2013 at about 00.30 am and the case was
made over to the forest department on 29.7.2013. Forest offence was registered

against the petitioner and her husband, who was driving the concerned vehicle. Respondent No.3 initiated the proceeding for confiscation of the vehicle seized under the forest offence against the petitioner. After conducting inquiry, the order dated 10.9.2014, was passed for confiscating vehicle. This order was challenged before the appellate authority Conservator of Forest, Surguja, Forest Circle, Ambikapur. The appeal was decided on 4.3.2015 and dismissed. A revision was preferred before the Court of First Additional Sessions Judge, Ambikapur revision Petition No.16/2016 was heard and dismissed.

3. It is submitted by the counsel for petitioners that Section 15(6) C.G. Van Upaj Vyapar Adhiniyam, 1969 (for short 'the Act', 1969) provides that if the owner of the vehicle concerned proves to the satisfaction of the authorized officer that the vehicle or any other articles which was used without his knowledge or connivance in that case the order of confiscation shall not be passed. This provision of the act has not been complied with. Petitioner has successfully proved in the inquiry before the respondent No.3 that the forest offence Crime No.8879/01 was committed without her knowledge and connivance, hence, she deserves an order in her favour. This fact has been overlooked by the respondents No.2 and 3 as well as by the revisional Court below, hence, prayed that the inherent power of Section 482 of Cr.P.C. be exercised for prevention abuse of process of law.
4. Learned counsel for State submits that inquiry for confiscation of the seized article has been conducted lawfully and order passed accordingly which has been confirmed by the appellate authority as well as the revisional Court below, which needs no interference. It is submitted that petitioner herself is being prosecuted for the forest offences, hence, there is no scope for interference.
5. Learned counsel for petitioner submits that as per his information only the husband of the petitioner Sunil Kumar Shrivastava is being prosecuted before the Court.
6. Heard learned counsel for both the parties and perused the material on record and record of the proceedings called from the Courts below.
7. The inquiry in proceeding initiated under Section 52B of Indian Forest Act, 1947 by the prescribed authority the D.F.O. in which the witnesses examined, who have given statement that a vehicle was stuck in mud in the forest area, they helped to pull out the vehicle and thereafter on asking of some persons present on the spot, some Sagon logs were loaded on the truck which were lying

nearby. Petitioner Laxmi Devi has given statement that she is registered owner of the vehicle concerned and this vehicle was used by her husband Sunil Shrivastava for going to village market for the purpose of transporting vegetables etc. On the date of incident, she was told by her husband that he was going to bring goats, but he did not return for two nights and later on, she came to know that the vehicle has got stuck in the forest. No question was put to her that she had specific knowledge or having such knowledge she connived in commission of the forest offence. On the basis of this statement given by the witnesses and the petitioner, that respondent No.3 came to conclusion that owner of the vehicle was involved in the commission of Forest offence which has been confirmed by the appellate authority respondent No.2.

8. The revisional Court while passing the impugned order has further submitted that it was the burden on the owner of vehicle to bring evidence that the forest offence was committed without her knowledge or connivance, in which she has failed. As per the evidence recorded in the inquiry, it is very clearly made out that petitioner is not the person who was making use of the vehicle at the time of the incident and neither she was the present on the spot where vehicle was seized by the police of P.S.-Kunkuri. In her statement, she has clearly stated that her husband was making use of the vehicle for purchase and transport of vegetables etc. and going to various village markets. There is no admission made by her that the vehicle under her registered ownership was ever used for commission of forest offence within her knowledge and further, no question was put by the presenting Officer of the forest department to challenge this statement made by her. Hence, for these reasons, it appears that simply because of the petitioner is related and wife of the prime accused in this case, it has been held that she had knowledge of the commission of the various offence or she has connived in the commission of forest offence.
9. The provision under Section 15(6) of the Act, 1969 clearly provides that the officer conducting an inquiry has to be satisfied that the concerned forest offence was committed without knowledge or connivance of the owner of the vehicle concerned. It is a case in which it cannot be said that the statement made by the petitioner before the prescribed authority lacked in any manner to record satisfaction that she did not have the knowledge or she never connived with respect to the commission of the forest offence. The statement of other witnesses present on the spot, who have stated that they helped in loading Sagon logs on the vehicle by itself cannot be held to be a statement made against the petitioner. Hence, for this reason, it is found that the respondent

No.3 has drawn an erroneous conclusion which has been mechanically confirmed by the appellate authority and the revisional Court below.

10. In view of above, it appears that this petition deserves to be allowed. The order impugned and the orders passed by the respondents No.2 and 3 are hereby set aside. Respondents No.1 to 3 are directed to pass a suitable order in the light of the order made in this petition.

11. Accordingly, the petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
JUDGE

Nisha