

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No.317 of 2016**

- Rakesh @ Sannu Mittal S/o Shri Prahlad Rai Mittal, Aged About 45 Years R/o. Gharghoda, Tahsil Gharghoda Distt. Raigarh, Civil And Revenue Distt. Raigarh (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Forest Range Officer, Gharghoda, Distt. Raigarh (Chhattisgarh)
2. Specified Officer/ Deputy Divisional Forest Officer, Gharghoda, District Raigarh (Chhattisgarh)
3. Collector, Raigarh, District Raigarh (Chhattisgarh).

---- Respondents

For Petitioner	:	Shri Manoj Kumar Sinha, Advocate
For Respondent/State	:	Shri Neeraj Jain, GA

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****23/02/2017**

The petitioner has filed this petition, aggrieved by communication of the State authorities in not releasing the seized vehicle despite the order passed in his favour by the Sessions Judge on 03-10-2013, by which, confiscation proceedings were set aside and there was a direction to release the vehicle.

2. Learned counsel for the petitioner submits that despite order dated 03-10-2013, the vehicle of the petitioner was not released, though repeated requests were made by the petitioner to respondent authorities. Learned counsel for the petitioner submits that the petitioner has placed on record letters dated 21-11-2013, 23-01-2014 and legal notice dated 11-06-2016, which were sent by the petitioner to the respondent authorities from time to time for release of his vehicle.

3. In the absence of there being any other order passed by any superior Court, the respondents had no authority to detain the petitioner's vehicle, because it caused great loss to the petitioner.

4. On the other hand, learned State counsel submits that the letter has been issued on 30-01-2017 by the Divisional Forest Officer, Raigarh to Sub Divisional Officer, Gharghoda for release of petitioner's vehicle, whereafter the Forest Range Officer informed the Divisional Forest Officer that though an attempt was made to handover possession of the vehicle to the petitioner, but the petitioner refused to receive the vehicle, because he insisted return of the vehicle in the same condition, in which, it was seized.

5. The letter dated 07-02-2017 was sent to the petitioner to take back his vehicle. It is quite apparent from the pleadings and document on record that after the order was passed by the Sessions Judge way back on 03-10-2013, vehicle of the petitioner was not released, despite repeated request made. Thereafter, the petitioner has filed this petition and vide order dated 25-11-2016, notices were issued to the respondents, then the respondents woke up and started proceedings for handing over possession of the vehicle. The petitioner has, however, refused to take the vehicle on the ground that the vehicle is not in the same condition, in which, it was seized and insists that he should be returned the vehicle in the same condition. Present situation arises on account of communication on the part of the respondent authorities in illegally detaining the vehicle of the petitioner despite confiscation order having been set aside in revision by the Sessions Judge in Criminal Case No.56/2011.

6. There is no explanation whatsoever offered in the reply as to why despite order of the Court dated 03-10-2013, the vehicle of the petitioner could not be released. In fact, there is no explanation at all and it appears to be an act of willful disobedience of law and judicial orders. It is quite apparent that the petitioner's vehicle was seized in a running condition. According to the prosecution case itself, when the petitioner was carrying paddy, the vehicle was intercepted and seized. Therefore, it is quite apparent

that the vehicle was in running condition. In these circumstances, appropriate orders are required to be passed.

It is apparent that the vehicle of the petitioner is rotten because it was kept in the Forest Depot for a long time and is no longer in running condition. The petitioner would be at liberty to take recourse to civil remedy for the damages, to which, he is entitled under the law. However, considering the aforesaid circumstances and also that despite order of the Sessions Judge dated 03-10-2013, the petitioner's vehicle has not been released, which was in running condition, at the time of seizure, the respondents are directed to pay compensation of Rs.1,50,000/- to the petitioner within a period of three months. This amount shall be liable to be adjusted against the damages that may be granted in civil remedy.

7. Accordingly, the petition is partly allowed.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge