

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 217 of 2017

1. State Of Chhattisgarh Through The District Magistrate, Kanker, District North Bastar, Kanker Chhattisgarh
2. The Conservator Of Forest Forest, Kanker Circle, Kanker, District North Bastar, Kanker Chhattisgarh
3. The Authorized Officer & Divisional Forest Officer, Kanker, District North Bastar Kanker Chhattisgarh

---- Petitioners

Versus

Jitesh Sahu S/o Sonau Ram Sahu, Aged About 37 Years R/o Village Bargari, Tehsil Charama, District Kanker Chhattisgarh

---- Respondent

Shri Ramakant Mishra, Dy.A.G. for the State / petitioner.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

10/03/2017

1. Heard on admission.
2. Learned counsel for the petitioner / State submits that the learned Sessions Judge committed serious error of jurisdiction and patent illegality and perversity in holding that no case is made out against the respondent. He submits that there was no dispute that the vehicle belonged to the respondent. He was the registered owner of the vehicle. The vehicle was found carrying forest produce and it has also come in the evidence that the forest produce was transported in the vehicle of which, the respondent was the registered owner. It is also submitted that later, the respondent also submitted an application for compounding of the forest offence though it could not materialize. Ignoring this material, learned Sessions Judge, recorded a perverse finding that there is no evidence of involvement of the respondent.
3. Merely because a person happened to be registered owner of the vehicle, the Court below could not have ordered confiscation in view of the provisions

contained in Section 52 (5) of the Indian Forest Act, 1927, which reads as below -

“5. No order of confiscation under sub-section (3) of any tools, vehicles, boats, ropes, chains or any other article (other than timber or forest produce seized) shall be made if any person referred to in clause (b) of sub-section (4) proves to the satisfaction of authorised officer that any such tools, vehicles, boats, ropes, chains or other articles were used without his knowledge or convenience or, as the case may be, without the knowledge or connivance of his servant or agent and that all reasonable and necessary precautions had been taken against use of objects aforesaid for commission of forest offence.”

4. The legal position in this regard is also well settled that only on the basis that a person is the owner of the vehicle, may not be involved in the forest offence and there has to be some material to show his involvement in the alleged commission of offence. The learned Sessions Judge has taken into consideration the oral and documentary evidence on record as also circumstance that the vehicle was being driven by other accused of the case and the respondent was not found there. It has also taken into consideration the circumstance that the forest produce was found near the house of the jurisdictional patwari and it is not a case that the forest produce was seized from the possession of the respondent or from any premises under his control.

5. The learned Sessions Judge has committed no illegality or perversity in coming to the conclusion that in the absence of any cogent positive material indicating involvement of the respondent, no confiscation of the vehicle could be done. It needs to be noted, even in the criminal case, all the accused have been exonerated.

6. In view of above consideration, in my considered opinion, no jurisdictional flaw appears in the impugned order so as to warrant interference by this Court in exercise of supervisory jurisdiction under Article 227 of the Constitution of India. The petition is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge