

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 675 of 2013

Girdhari Yadav, S/o. Munnu Yadav, Aged About 45 Years, R/o. Village Remne, Tahsil & P.S. Manora , Civil & Rev. Distt. Jashpurnagar, C.G.

---- Petitioner

Versus

1. Specified Officer/Sub-Forest Divisional Officer, Jashpur, P.S. -Jashpur, Civil & Rev. Distt. -Jashpurnagar C.G.
2. Conservator of Forest, Forest Circle Ambikapur, P.S. Ambikapur, Civil & Rev. District Surguja C.G.

-----Respondents

For Petitioner : Mr. D.N. Prajapati, Advocate

For Respondents/State : Mr. Neeraj Sharma, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

23/08/2017

Heard.

1. This petition under Section 482 of Cr.P.C. has been brought to quash the orders passed by the Forest Officer, Appellate Authority and the Revisional Court/Sessions Judge, Sarguja, by which the vehicle under the ownership of the petitioner was confiscated under Section 52 of the Indian Forest Act, 1927 by the confiscating authority, respondent No.1 and the order was upheld by the Appellate Authority, respondent No.2 as well as by the revisional Court.
2. It is submitted by the learned counsel for the petitioner that petitioner is owner of the tractor bearing registration No.C.G.-14A-4021 and trolley bearing registration No.C.G.14A-4022. Petitioner had rented out the tractor and trolley to one contractor Ram Kumar Gupta and the vehicle

was used for the purpose of construction of road as per the directions and instructions given by Ram Kumar Gupta, in which petitioner had no role to play. The forest officials seized the vehicle in connection with forest offence on 30.11.2011 alleging that tractor and trolley was used for transporting of metal from the mines in the forest area. Proceedings for confiscation was initiated before the confiscating authority, respondent No.1, in which the statement of the witnesses were recorded. On completion of the proceeding, the order dated 14.06.2012 (Annexure P/2) was passed confiscating the seized tractor and trolley. Petitioner challenged this order before the appellate authority, respondent No.2, but his appeal was dismissed vide order dated 25.10.2012 (Annexure P/3). Petitioner again moved before the revisional Court, the Sessions Judge by criminal revision petition No.186/2012, which was decided on 29.04.2013 and the revision petition was dismissed.

3. It is submitted by the counsel for the petitioner that petitioner had no role to play in connection with alleged forest offence committed. He had simply let out the tractor and trolley of his ownership to Ram Kumar Gupta and it was on his instruction and direction, the tractor and trolley was used by the driver engaged, hence it can not be said that petitioner had the knowledge of commission of forest offence or such offence was committed by his connivance. For these reasons, he is entitled for possession of the seized tractor and trolley. Prayer has been made to allow this petition.
4. Counsel for the State has opposed the submission made on behalf of the petitioner and it is submitted that in the enquiry, statement of the witnesses clearly shows that the petitioner had the knowledge that his

tractor and trolley was being used for excavation from mines, within the forest area and thus, the forest offence was committed by his connivance. For these reasons, the petitioner is not entitled for any relief.

5. I have heard the learned counsel for the parties at length and perused the documents placed on record.
6. Order passed by the confiscating authority, Divisional Forest Officer, Jashpur dated 14.06.2012 (Annexure P/2), mentions the statement recorded of the witnesses in detail. Witness namely Rubin and Girdhari, both the witnesses have clearly stated that driver of the tractor and trolley was working under the instructions of Ram Kumar Gupta. Ram Kumar Gupta himself was examined by the confiscating authority, who has stated that he had hired the tractor and trolley from the petitioner for Rs.18,000/- per month and it was on his instruction laterite was being transported in the tractor and trolley. As many as 14 witnesses have been examined and none of witnesses have stated that driver of the tractor and trolley was acting on the instructions of petitioner, rather there is a evidence of the driver of the tractor and trolley that he was working on instruction of Ram Kumar Gupta, the contractor for the road construction and it is also clear that petitioner had no connection with the construction work. Under these circumstances, the alleged act of forest offence can not be connected with the petitioner in any manner and it can not be said that forest offence committed was in his knowledge and the offence was committed by his connivance.
7. Section 52 (5) of the Forest Act, 1927 clearly provides that in case it is proved by the owner of the seized vehicle or other article, that he had

no knowledge of the commission of forest offence, neither the offence was committed by his connivance, in that case, the vehicle or article seized, can be released in his favour. Hence for these reason, petition deserves to be allowed and it is hereby allowed. The order passed by the confiscating authority and subsequent order of upholding the confiscation order passed by the appellate authority, the respondent No.2 and revisional Court are hereby set-aside. Respondents are directed to handover the possession of the seized vehicle to the petitioner within a period of 60 days from the date of passing of this order.

8. Accordingly, the petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram