

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 351 of 2017

Narendra Singh S/o Shri Jora Singh Aged About 46 Years R/o
Indira Ward No. 16 Gurudwara Road Jagdalpur Police Station-
Kotwali Jagdalpur, Civil & Revenue District- Baster, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through The District Magistrate Dhamtari
Civil & Revenue District- Dhamtari, Chhattisgarh.

Respondent

For applicant- Shri Sunil Sahu, Advocate.
For State- Shri Anupam Dubey, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

4/04/2017

1. This revision is against the order dated 13/02/2017 passed by the court of Additional Sessions Judge, Dhamtari in Criminal Appeal No.9/2017 wherein the appeal preferred by the applicant/appellant who is said to be the owner of truck filed an application for getting vehicle on supurdnama was dismissed by the trial court and was affirmed by the appellate court.

2. Facts of this case are that on 19/09/2016 on an information received that the truck bearing No. CG 17 H 3116 was being used for transportation of the cattles to the slaughter house, thereby there has been violation of Chhattisgarh Agricultural Cattle Preservation Act, 2004 and having intercepted the vehicle, the cattles were recovered from the truck. After investigation charge sheet was filed under Sections 4, 6, 10 and 11 of the Chhattisgarh Agricultural Cattle

Preservation Act, 2004 and Section 66 read with 192 of the Motor Vehicles Act. Charge sheet was filed against one Tamkuram Nag and Dinesh Bhagel. After trial JMFC, Dhamtari in Criminal Case No.978/2016 by an order dated 18/01/2017 acquitted the accused under Sections 4, 6, 10 and 11 of the Chhattisgarh Agricultural Cattle Preservation Act, 2004 and Section 66 read with 192 of the Motor Vehicles Act. It is submitted by the appellant that no appeal was preferred and the acquittal order contained that truck bearing No. CG 17 H 3116 would be subject to confiscation.

3. Against such order of confiscation, Narendra Singh the appellant who claimed to be the owner of the truck had filed appeal wherein appellate court on 13/02/2017 has passed the judgement which affirmed the order of the trial court, therefore instant revision.

4. Learned counsel for the applicant would submit that order of confiscation is apparently wrong since original accused in this case were acquitted, thereby it would lead to point out that no offence has actually been committed. It is stated that property was seized from the possession of other co-accused Tamkuram Nag and Dinesh Bhagel and ownership of the said vehicle belong to the applicant, therefore property should have been released in favour of the applicant.

5. Learned State counsel opposes the petition.

6. Heard learned counsel for the parties.

7. Perusal of the order dated 13/02/2017 and the facts as is narrated would show that truck bearing No. CG 17 H 3116 was seized in Crime No.310/2016 for which a charge sheet was filed under Sections 4, 6, 10 and 11 of the Chhattisgarh Agricultural Cattle Preservation Act, 2004 and Section 66 read with 192 of the Motor

Vehicles Act. In the trial though the accused were acquitted yet the vehicle was ordered to be confiscated. Against such order of confiscation, the applicant had preferred an appeal and the appellate court too affirmed the order of confiscation. The appellate court had referred to section 6 sub section (3) of the Act 2004 which mandate that before the expiry of six months from the date of seizure or till final judgement of the court, whichever is earlier the vehicle shall be liable for confiscation at the end of the trial. Admittedly, in this case trial has come to an end with the acquittal order dated 18/01/2017 filed as Annexure A-2. Hon'ble Supreme Court in case of **N. Madhavan Vs. State of Kerala** reported in **AIR 1979 SC 1829** has laid down dictum that the articles which have been seized, after the completion of the trial, should be handed over to the person from whom it is seized unless it is otherwise proved to have belonged to a third person. Further Hon'ble Supreme Court in case of **Pushkar Singh Vs. State of Madhya Pradesh and another** reported in **AIR 1953 SC 508** has laid down that when property is being handed over to the other person, other than the person from whom it was seized, person from whom it was seized should be noticed before handing over the possession. Reading of section 6 sub section 3 of Chhattisgarh Agricultural Cattle Preservation Act, 2004 would show it do not prohibit handing over the possession of vehicle only time limit varies from date of seizure and six months time period is provided. In view of this, once original main accused who were charged under the crime namely Tamkuram Nag and Dinesh Bhagel who were acquitted by the trial court it would lead to form an opinion that no offence has been committed at all. Therefore, if no offence has been committed, then in such case

property which were seized during such alleged commission of crime cannot be subject of confiscation. It would have been different case had there been a conviction which is not a case here.

8. In the facts of this case, I am of the opinion that order of both the court below are liable to be set aside. Applicant is entitled to get back possession of the vehicle provided he proves his ownership in respect of the vehicle. Learned trial court shall proceed with the application for handing over the possession of the vehicle after due notice to the other co-accused namely Tamkuram Nag and Dinesh Bhagel from whom vehicle was alleged to be seized and after satisfaction of the proof that the applicant is the owner of the vehicle by imposing necessary condition, possession of vehicle may be handed over to the applicant.

9. In view of the above, revision petition is allowed.

Sd/-

(Goutam Bhaduri)

JUDGE