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HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 680 of 2017

Smt. Anwari Begam, W/o. Aslam Quareshi, aged about 53 years, R/o. Rani Basti Belgahna, Tahsil – Kargiroad, District – Bilaspur (C.G.)

---- Petitioner

Versus

State Of Chhattisgarh, Through : the Sub-Divisional Forest Officer, Pendaroad, District – Bilaspur (C.G.)

-----Respondent

For Petitioner	: Mr. P.P. Sahu with Mr. Amit Kumar Sahu, Advocates
For Respondent/State	: Mr. Ashish Shukla, Govt. Advocate With Mr. Anurag Shrivastava, Divisional Forest Officer, Marwahi.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

03/07/2017

Heard.

1. This petition has been filed by the petitioner submitting that one vehicle Tata Magic Pick-up bearing No.C.G.-10-C-3439 under her ownership was seized in connection with forest offence by the respondent and the same was ordered to be confiscated by the order dated 08.07.2011 by the Sub-Divisional Officer Forest as a result of which the vehicle has been auctioned and the sale proceeds are deposited in the treasury.
2. The said order dated 08.07.2011 was challenged before the Conservator of Forest, Bilaspur and by the order dated 23.11.2011, the order of the Sub-Divisional Officer Forest was upheld by the

Conservator of Forest, against which a revision was filed before the Sessions Court, Bilaspur bearing criminal revision No.47/2012. The First Additional Sessions Judge, Bilaspur vide order dated 30.08.2012 has set-aside the order of confiscation of the seized property passed by the S.D.O. Forest and confirmed by the Conservator of Forest.

3. Further the order of the First Additional Sessions Judge, Bilaspur was challenged before this Court in W.P.(227) No.43/2013, which was decided on 04.03.2016 by the Single Bench of this Court in which liberty was given to the petitioner to file an application under Section 451/457 of the Code of Criminal Procedure before the concerned subordinate criminal Court.
4. Pursuant to that, an application was filed before the Court of Judicial Magistrate First Class, Pendra Road U/s. 451/457 of the Code of Criminal Procedure for interim custody of the seized vehicle, which was decided by the order dated 09.11.2016, whereby the application preferred under Section 451/457 of Cr.P.C. was rejected. The same was challenged in revision before the Additional Sessions Judge, Pendra Road, District – Bilaspur bearing Criminal Revision No.3/2017 which was decided by the order dated 17.02.2017, whereby the revision preferred by the applicant was dismissed.
5. After filing of this petition, further development which has been brought to the notice of the Court is that the seized and confiscated vehicle was auctioned on 23.11.2015 and the sale proceeds are deposited in the treasury. Presently, the only prayer of the petitioner is that she is entitled for refund of the amount pertaining to sale proceeds of the seized vehicle.

6. State has formal objection on this ground that prosecution is yet to be initiated against the accused of the forest offence in this case.
7. As there is no accusation against the petitioner, her entitlement seems to be without any question. Hence the prayer of the petitioner is allowed. The respondent is directed to make payment of the auctioned amount of Rs.70,001/- (as informed by the respondent) within a period of one month from today.
8. Counsel for the petitioner has submitted that petitioner is also entitled for interest on the amount claimed by her. Under the provisions of Section 482 of Cr.P.C., this Court can exercise limited jurisdiction. Entitlement of interest and the damages is separate issue which is dealt before the Civil Court. The petitioner is at liberty to file any such proceedings, before the Civil Court, if so advised.
9. Accordingly, the petition is disposed of with aforesaid observation.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram