

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 3780 OF 2014

The State of Maharashtra and anr. **... Petitioners**

V/s.

Kalu Janu Khot **... Respondent**

Mr. Amit Palkar, APP for the Respondent-State.

CORAM : A.S.GADKARI, J.
DATE : 10th September, 2018

P.C.:

1. By the present petition the State of Maharashtra has questioned the correctness of the Judgment and Order dated 2.7.2014 passed by the learned Ad-hoc Additional Sessions Judge-1, Kolhapur in Criminal Misc. Application No.43 of 2014 thereby setting side the Order dated 5.4.2014 passed by the Deputy Conservator of Forest, Islampur releasing the cattle (five buffaloes) of respondent No.1 on execution of bond.

2. Heard the learned APP. Perused the record.

3. It is the prosecution case that, the buffaloes of respondent No.1 entered in the forest area of Chandoli Sanctuary/Reserve forest and

caused damage to the natural resources by grazing in the said area of Chandoli Sanctuary. It is alleged that respondent No.1 illegally released the said cattle for grazing in spite of prohibition therein. That, respondent No.1 was not having any licence for doing so and therefore, respondent No.1 committed violation of Section 26(1) 61(c)(1) of the Indian Forest Act, 1927. The Assistant Conservator of Forest, Islampur by its Order dated 5.4.2014 was pleased to confiscate the said cattle which were seized by the Assistant Conservator of Forest in the said Sanctuary on 16.3.2014, when they entered into the jurisdiction of said Sanctuary by its Order dated 5.4.2014 and pleased to direct confiscation of the said cattle. The respondent No.1 preferred Criminal Revision Application No.43/2014 in the Court of Ad-hoc Additional Sessions Judge -1 Kolhapur challenging the said order dated 5.4.2014 of Assistant Conservator of Forest which came to be allowed by the impugned Judgment and Order as noted herein above.

4. The learned APP submitted that as the Order passed by the Assistant Conservator of Forest was under Section 61(c)(i) an appeal would lie and instead of that the respondent No.1 preferred criminal Misc. Application No.43/2014 which has been wrongly entertained by the learned Ad-hoc Additional Sessions Judge, Kolhapur.

5. Perusal of the record would indicate that while entertaining and allowing the said application the learned Additional Sessions Judge, Kolhapur has taken into consideration the various aspects of the matter and was pleased to release the cattle (five buffaloes) by setting aside the Order dated 5.4.2014 passed by the Assistant Conservator of Forest, Islampur. The record indicates that, respondent No.1 did not deliberately do the act of releasing the cattle in the prohibited area or demarcated area of the said Sanctuary but it is due to the sheer inadvertence and lack of knowledge on the part of respondent No.1, his cattle entered into the jurisdiction of the said Sanctuary. It prima facie appears that, the act committed by respondent No.1 is not deliberate or intentional. The submission of the learned APP. is hipertechanical in nature and does not relate to the issue involved in the present case.

6. In view of the above,I find that the learned Additional Sessions Judge has not committed any error either in law or on facts while passing the impugned Order dated 2.7.2014.

7. Petition is accordingly rejected.

(A.S.GADKARI, J.)