

AFR**HIGH COURT OF CHHATTISGARH, BILASPUR****RESERVED ON 4-9-2019****DELIVERED ON 5-9-2019****CRMP No. 148 of 2018**

Rajiq Qureshi S/o Sakur Qureshi Aged About 28 Years R/o Tatibandh,
Raipur District Raipur Chhattisgarh

---- Petitioner**Versus**

State of Chhattisgarh Through The Station House Officer, Police
Station Ambagarh Chowki, District Rajnandgaon Chhattisgarh

---- Respondent

For petitioner	:	Mr. Arvind Dubey, Adv.
For Respondent	:	Mr. Dinesh Kumar Tiwari, Dy. Govt. Adv.

Hon'ble Shri Sharad Kumar Gupta, Judge**CAV ORDER**

1. Petitioner has preferred this CRMP under Section 482 of the Code of Criminal Procedure (in brevity Cr.P.C.) for quashing the order dated 1-7-2014 passed by 2nd Addl. Sessions Judge, Rajnandgaon (CG) in Cri. Revision No. 72/2012 arising out of judgment dated 19-9-2012 passed by the JMFC, Ambagarh Chowki, Rajnandgaon whereby and whereunder he ordered that offending vehicle truck No. CG 04 JA 9209 be confiscated in favour of the State Government, and offending vehicle may be released on supurdnama to him.

2. In brief respondent's case is that accused Shekh Salim was facing trial for the offences punishable under Section 10 of the CG Agricultural Cattle Preservation Act, 2004, Section 11(d) of Prevention of Cruelty to Animal Act, 1960, and Section 66/192 of the Motor Vehicles Act, in Criminal Case No. 232/2012 in the Court of JMFC, Ambagarh Chowki Distt. Rajnandgaon. The offending vehicle was Truck No. CG 04 JA 9209. On 19-9-2012, JMFC Ambagarh Chowki convicted and sentenced accused Shekh Salim for aforesaid sections of aforesaid Acts. JMFC Ambagarh Chowki also ordered that said vehicle be

confiscated in favour of the State Government. The orders of both the Courts are in accordance with law. No grounds are made out for interference by this Court under Section 482 of the Cr.P.C.

3. Counsel for the petitioner submitted that the order of the revisional Court is patently illegal as he had not got opportunity of hearing before confiscation of the truck. Without his knowledge the accused was transporting cattle in the vehicle.

4. Counsel for the respondent submitted that both the subordinate Courts have passed reasoned orders thus no interference is called for. The revisional Court has rejected the revision on the ground that in the appeal preferred by the accused, the confiscation order was affirmed thus, there is no propriety of filing this revision. The revisional Court has not touched the merits of the revision. He did not consider the claim of petitioner. Thus, the revisional Court committed illegality.

5. In **Parbatbhai Aahir v. State of Gujarat**, [(2017) 9 SCC 641], the Hon'ble Supreme Court has had an occasion to consider whether the High Court can quash the FIR/complaint/criminal proceedings, in exercise of the inherent jurisdiction under Section 482 Cr.P.C. Considering a catena of decisions on the point, the Hon'ble Supreme Court summarised the following propositions:

“(1) Section 482 CrPC preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.

(2) xxx xxx xxx

(3) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

(4) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.

(5)	xxx	xxx	xxx
(6)	xxx	xxx	xxx
(7)	xxx	xxx	xxx
(8)	xxx	xxx	xxx
(9)	xxx	xxx	xxx
(10)	xxx	xxx	xxx”

6. In the matter of **Narinder Singh v. State of Punjab** [(2014) 6 SCC 466], after considering the decision in **Gian Singh v. State of Punjab**, [(2012) 10 SCC 303], in para 29.1, Their Lordships summed up as under:

“29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, **this power is to be exercised sparingly and with caution.**”

7. In the case in hand, it appears that there is an abuse of process of law in the proceedings of 2nd Addl. Sessions Judge, Rajnandgaon and intervention is necessary to secure ends of justice. Thus, looking to the aforesaid judicial precedent laid down by Hon'ble Supreme Court in the matter of **Parbatbhai Aahir** (supra), this Court finds that on the ground of abuse of process and to secure ends of justice, this Court must intervene in the order of 2nd Addl. Sessions Judge, Rajnandgaon.

8. Looking to the above mentioned facts and circumstances of the case, looking to the aforesaid judicial precedent laid-down by Hon'ble Supreme Court in the matter of **Narinder Singh** (supra) this Court finds that it is a fit case where the extra ordinary jurisdiction of Section 482, Cr.P.C. must be invoked which is invoked sparingly with care and circumspection.

9. Consequently, the impugned order of 2nd Addl. Sessions Judge, Rajnandgaon is quashed. The matter is remitted back to the 2nd Addl.

Sessions Judge, Rajnandgaon and he is directed that he shall dispose of the aforesaid revision of petitioner afresh in the light of the aforesaid discussion, within 10 days from date of receipt of certified copy of this order.

10. Instant CRMP is disposed of accordingly.

Sd/-
Sharad Kumar Gupta
Judge

Pathak/-