

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 229 of 2018

Surinder Singh Saluja S/o Late Shri Devendra Singh Aged About 36 Years R/o Civil Line Manedragarh District Korea Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- **Petitioner**

Versus

1. State of Chhattisgarh through Secretary Department of Home, Mahanadi Bhawan Mantralaya Naya Raipur District : Raipur, Chhattisgarh
2. Collector , Korea Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh
3. Station House Officer, Manedragarh, District : Koriya (Baikunthpur), Chhattisgarh

--- **Respondents**

For the applicant : Mrs. Anju Ahuja, Advocate.
For the respondents : Mr. Akash Pandey, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

26.2.2019

1. The present petition is for quashing the confiscation proceeding No.22/B-121/2017-18 (*State v. Surinder Singh Saluja*) initiated by Collector Korea. It is contended that the vehicle bearing No.C.G.10-AB/5277 was seized in connection with Crime No.180/2017 for the offence u/s 34(2) of the Excise Act wherein it was alleged that the vehicle was carrying/transporting 328 bulk litres of illicit liquor., at village Chintimar Road. Consequently, on such seizure, the vehicle was subjected to confiscation and a case was separately registered u/s 34(2) of the Excise Act on 06.06.2017.

2. Learned counsel for the petitioner would submit that in respect of criminal case bearing No.277/2017 which arose out of the said crime No.180/2017 the learned Judicial Magistrate First Class, Manendragarh by order dated 26.12.2017 has acquitted the petitioner by giving benefit of doubt on the ground that prosecution has failed to prove that the illicit liquor was transported or carried in the offending vehicle. It is stated that the certified copy of the order dt.26.12.2017 was filed before the Collector, however, the Collector continued with the confiscation proceeding of the vehicle irrespective of the fact that the petitioner has been acquitted of the charge u/s 34(2) of the Excise Act in connection with original Crime No.180/2017. It is stated that since the prosecution itself has not been able to prove the offence, the vehicle cannot be subjected to confiscation for carrying the alleged illicit liquor.
3. Per contra, learned State counsel opposes the same.
4. Perused the order dated 26.12.2017 passed by the JMFC Manendragarh. It is not in dispute that the said order is with respect to the crime which is alleged to have been committed by the petitioner wherein the vehicle bearing No. C.G.10-AB/5277 was seized with an allegation of carrying the illicit liquor. A perusal of the order shows that the prosecution has failed to prove the fact that the vehicle was carrying illicit liquor as there was inconsistency existed in the evidence. It appears that apart from the offence u/s 34(2) of the Excise Act 1950, separate confiscation proceeding was also drawn. Copy

of the order sheets are cumulatively filed as Annexure P-3. If the petitioner has been acquitted in Criminal Case No.277/2017 which arose out of original crime No. 180/2017 for the offence punishable u/s 34(2) of the Excise Act, then in such a case it will lead to draw an inference that no offence was actually committed and if no offence was committed then in such a case the confiscation proceeding which is an off-shoot of commission of offence automatically stands shelved or closed.

5. Under the circumstances, since the petitioner has been acquitted of the charge u/s 34(2) of Excise Act, the confiscation proceedings in respect of the vehicle No.C.G.10-AB/5277 allegedly involved in the crime cannot be continued. As a result, the petition is allowed and the proceedings of confiscation bearing No.22/B-121/2017-18 (State v. Surinder Singh Saluja) Annexure P-3 are quashed. Accordingly, necessary consequence will follow.

Sd/-
GOUTAM BHADURI
JUDGE