

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 237 of 2020

Ashok Singh Yadav S/o Girja Yadav Aged About 44 Years R/o House No. 668/1 No. 46 Janakpuri Ayodhyapuri Jailgaon Darri Kathghora District - Korba Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Chowki - Basadei Police Station - Surajpur District - Surajpur Chhattisgarh.

---- Respondent

For Applicant	: Shri A.N. Pandey, Advocate.
For Respondent/ State	: Shri Arijit Tiwari, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

03-03-2020

Heard on application for condonation of delay in filing this revision petition.

After due consideration, the application is allowed and the delay in filing this petition is hereby condoned.

Heard on admission.

1. It is submitted by counsel for the applicant that the applicant is the owner of pickup vehicle bearing registration No. C.G.12 AS-4622, which was seized in connection with the offence under Section 20(b) of the NDPS Act in Crime No. 377 of 2018. The seizure was made from accused – Sanjay Kumar Sahu against whom the charge-sheet was filed before the concerned Court. During the pendency of the criminal case registered as 28 of 2018, due to the death of the accused person the prosecution against him was terminated by order dated 22.8.2019

and in the same order, it was held that the seized vehicle was liable for confiscation and a notice was issued to the applicant as to why the pick-up vehicle No.C.G.12 AS-4622 under seizure be not confiscated and the proceeding in that order was closed on the same day.

2. Subsequent to this order, the notice that was issued to the applicant attached as Annexure-A/5 mentions that the vehicle above-mentioned has been confiscated under Section 60 of the NDPS Act, therefore, the applicant is required to produce his vehicle before the Court on the given date, therefore, the order passed is erroneous and without following the procedure. Hence, it is prayed that this petition be allowed and the impugned order be interfered.
3. Learned State counsel opposes the submissions made in this respect. It is submitted that the confiscation proceeding has been completed and according to the notice issued to the applicant for confiscation of the vehicle, no error has been committed by the Court concerned. Therefore, this revision petition is without any substance which may be dismissed.
4. Heard counsel for both the parties and perused the documents present on record.
5. On perusal of the impugned order, it is found that the submission has been accordingly made by counsel for the applicant's side. After terminating the proceeding against the deceased/ accused, the Court has ordered issuance of notice to the applicant who was the supurdar to show cause as to why the seized vehicle should not be confiscated.
6. After the order of issuance of notice, the proceeding should have been continued for the appearance of the applicant and the submission of his reply before passing any order for confiscation. Therefore, the

impugned order does not speak of any confiscation made and also the notice issued vide Annexure-A/5 is also not a notice for showing cause as to why the seized vehicle should not be confiscated.

7. Section 63(1) of the NDPS Act empowers the trial Court to proceed for the confiscation of any article or thing which is liable to be confiscated under Section 60 of the NDPS Act. The first proviso sub-section (2) of Section 63 of the NDPS Act provides that no order of confiscation of an article or thing shall be made until the expiry of one month from the date of seizure, or without hearing any person who may claim any right thereto and the evidence, if any, which he produces in respect of his claim. Therefore, according to this provision, the Court had option either to confiscate directly or to issue notices to the person having claim on the seized property to show cause why the seized article should not be confiscated. Learned Court below has taken the second option and issued notice to the applicant for showing cause and that order has not been pursued. On the contrary the whole proceeding was closed and record was ordered to be deposited in record room.
8. Therefore, I find that the learned Court below has not taken the pain to follow the provision and proceed accordingly. According to the circumstances present, there is no order of confiscation of the vehicle passed by the Court below at present. Hence, the petition is disposed off at the motion stage. The impugned order does not need any interference, however, the last part of the order which pronounces, closure of the proceeding and directing deposit of the record in record room, is set aside. The proceeding before the Court below in M.J.C. No.28 of 2018 is now directed to continue and the applicant is directed to give his appearance before the said Court and present his explanation to the show cause notice. Learned trial Court is further

directed to proceed in accordance with law and decide the matter regarding the confiscation of the seized property after affording opportunity to the applicant.

9. Accordingly, this revision petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nimmi