

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (Cr.) No.293 of 2020

Mahendra Kumar Sao, S/o Shri Devnath Sao, aged about 35 years, "registered owner of the Vehicle" R/o House No.15/02, Ward No.2, Bich Basti Regada, Village Sambalpuri, PS City Kotwali, Tahsil and District Raigarh (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Collector, Raigarh, Tahsil and District Raigarh (C.G.)
2. The Superintendent of Police, Raigarh, Tahsil and District Raigarh (C.G.)
3. The Station House Officer of the Police Station Chakradhar Nagar, Raigarh, Tahsil and District Raigarh (C.G.)

---- Respondents

For Petitioner: Mr. Abhishek Saraf, Advocate.

For Respondents / State: Dr. Veena Nair, Deputy Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

21/07/2020

1. Proceedings of this matter have been taken-up through video conferencing.
2. In this case, earlier this Court has remitted the matter to the Collector who has initiated confiscation proceeding against the petitioner herein. The petitioner filed application for interim custody of the vehicle which has been rejected against which this petition has been filed.
3. I have heard learned counsel for the parties and considered their submissions and gone through the record with utmost circumspection.
4. The finding of the learned Collector that before final disposal of the confiscation proceeding, vehicle cannot be confiscated runs contrary to the

decision of the Supreme Court in the matter of Sunderbhai Ambalal Desai

v. State of Gujarat¹ in which their Lordships held as under: -

“15. Learned Senior Counsel Mr. Dholakia, appearing for the State of Gujarat further submitted that at present in the police station premises, a number of vehicles are kept unattended and vehicles become junk day by day. It is his contention that appropriate directions should be given to the Magistrates who are dealing with such questions to hand over such vehicles to their owners or to the person from whom the said vehicles are seized by taking appropriate bond and guarantee for the return of the said vehicles if required by the court at any point of time.

16. However, the learned counsel appearing for the petitioners submitted that this question of handing over vehicle to the person from whom it is seized or to its true owner is always a matter of litigation and a lot of arguments are advanced by the persons concerned .

17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

18. In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle may be ordered to be auctioned by the court. If the said vehicle is insured with the insurance company then the insurance company be informed by the court to take possession of the vehicle which is not claimed by the owner or a third person. If the insurance company fails to take possession, the vehicles may be sold as per the direction of the court. The court would pass such order within a period of six months from the date of production of the said vehicle before the court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchnama should be prepared.”

5. In view of that, the impugned order is set aside and the Collector is

directed to consider the case of the petitioner for grant of interim custody

of the vehicle as noticed herein-above and pass order within 45 days from the date of receipt of a copy of this order.

6. With the aforesaid observation, the writ petition stands finally disposed of.

Sd/-
(Sanjay K. Agrawal)
Judge

Soma