

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRMP No. 924 of 2020**

Garib Ram S/o Ranjan Ram, Aged about 51 years,
R/o Village Jamoni, P.S. Dhaurpur, Distt.
Surguja, Chhattisgarh.

---Petitioner

Versus

State of Chhattisgarh, through the District
Magistrate Surguja, Ambikapur, Distt. Surguja,
Chhattisgarh.

--- Respondent

For Petitioner :- Mr. Rakesh Pandey, Advocate
For State :- Mr. Ravi Bhagat, Dy. G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

21/07/2020

1. Proceedings of this matter have been taken up for hearing through video conferencing.
2. This petition under Section 482 of Cr.P.C. has been preferred by the petitioner herein whose vehicle has been involved in commission of offence under Sections 279, 337 and 338 of Indian Penal Code, 1860 read with Section 186 of Motor Vehicle Act, 1988. He moved an application under Section 451 of Cr.P.C. for grant of interim custody of his vehicle. The said application was allowed by learned Judicial Magistrate First Class, Ambikapur

vide order dated 13/06/2020 (Annexure P/1) directing the petitioner to deposit a sum of ₹ 2,00,000/- in cash or Bank guarantee of equivalent amount, against which the petitioner preferred a revision. Learned revisional Court affirmed the order passed by the Judicial Magistrate and vide order dated 13/06/2020 (Annexure P/1) dismissed the revision against which the present petition has been filed by the petitioner herein.

3. Mr. Rakesh Pandey, learned counsel for the petitioner, would submit that both the Courts below have concurrently and gravely erred in relying upon Section 240-A of Chhattisgarh Motor Vehicles (Amendment) Rules, 1994 and directing the petitioner to deposit the amount of ₹ 2,00,000/-, as such, the order passed by the Judicial Magistrate as well as the order passed by the revisional Court, deserve to be set aside.

4. Mr. Ravi Bhagat, learned State counsel, would support the impugned order and submit that the present petition deserves to be dismissed.

5. I have heard learned counsel for the parties, considered their rival submissions made herein-

above and went through the records with utmost circumspection.

6. Rule 240-A of the Chhattisgarh Motor Vehicles Rules, 1994 (in short "the Rules of 1994") provides as under :-

"240-A. Prohibition on release of motor vehicle causing accident. -

(1) No court shall release a motor vehicle causing an accident resulting in death or bodily injury or damage to property, if such vehicle is not covered by the policy of insurance against third party risks or if the registered owner fails to furnish copy of such insurance policy despite demand by investigating police officer, unless and until the registered owner furnishes sufficient security to the satisfaction of the court, to pay compensation that is likely to be awarded in a claim case arising out of such accident.

(2) Where the motor vehicle is not covered by a policy of insurance against third party risks, or when registered owner of the motor vehicle fails to furnish copy of such policy as per condition mentioned in sub-rule (1), the motor vehicle shall be sold off in public auction by the magistrate having jurisdiction over the area where accident occurred, on expiry of three months of the vehicle being taken in possession by the investigating police officer, and proceeds thereof shall be deposited with the Claims

Tribunal having jurisdiction over the area in question, within fifteen days for purpose of paying the amount of compensation that may have been awarded, or may be awarded in a claim case arising out of such accident.

(3) The Claims Tribunal shall return the balance amount from the amount obtained by the public auction of the vehicle as per sub-rule (2) after paying the compensation finally decided in the claims case and after deducting the amount due to the transport department on account of the said vehicle, to the registered vehicle owner, but no interest shall be payable to the registered vehicle owner on said amount. The amount due to the transport department shall be sent to the transport department by the Claims Tribunal.

(4) No Tax/Interest/Penalty shall be leviable on the vehicle from the date of taking into custody by the investigating officer till the date of public auction of the vehicle."

7. A careful perusal of the aforesaid rule would show that if from a motor vehicle, any accident, death or physical injury occurs, and the vehicle is not insured during that particular period, then the Court releasing the vehicle would not release the said vehicle unless the registered owner furnishes sufficient security to the estimated compensation, otherwise, the said vehicle will be subjected to

public auction and the proceeds of the same will go to the Claims Tribunal of that area towards compensation.

8. Admittedly, petitioner's vehicle was not insured on the date of the accident and in that view of the matter, learned Judicial Magistrate relied upon Rule 240-A of the Rules of 1994 and directed the petitioner to deposit such an amount of ₹ 2,00,000/- as a condition precedent for release of his vehicle which is strictly in accordance with law, as such, the impugned order passed by the revisional Court affirming the order of the Judicial Magistrate is neither illegal nor contrary to law, rather it fulfills the object of Rule 240-A of the Rules of 1994. However, the copy of the order passed by learned Magistrate be sent to the Claims Tribunal having jurisdiction to take benefit of Rule 240-A of the Rules of 1994 if payment of compensation is not made by the concerned owner of the vehicle.

9. Accordingly, the present petition deserves to be and is accordingly dismissed.

10. A copy of this order be circulated to all the Magistrates exercising jurisdiction under Section 451 and 457 of Cr.P.C. enabling them to comply with

Rule 240-A of the Chhattisgarh Motor Vehicles Rule,
1994, by the Registrar (Judicial) with the leave of
Hon'ble the Chief Justice, if appropriate.

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet