

**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRMP No. 2514 of 2019****Order reserved on 19/06/2020****Order delivered on 29/06/2020**

Manoj Agrawal S/o Late Shri Mahadev Agrawal,  
Caste Agrawal, Aged about 42 years, R/o Niche  
Para, Dharamjaigarh, P.S. and Tahsil  
Dharamjaigarh, District Raigarh, Chhattisgarh.

**---Petitioner****Versus**

1. State of Chhattisgarh, through District  
Magistrate Raigarh, District Raigarh,  
Chhattisgarh.
2. Forest Officer (Forester), Bakaruka Forest  
Department, Dharamjaigarh, District Raigarh,  
Chhattisgarh.
3. Competent Officer/Sub-divisional Forest Officer,  
Forest Department, Lailunga, District Raigarh,  
Chhattisgarh.

**--- Respondents/State**

---

For Petitioner:- Mr. Surfaraj Khan, Advocate  
For State :- Mr. Animesh Tiwari, Dy. A.G.

---

**Hon'ble Shri Justice Sanjay K. Agrawal****C.A.V. Order**

1. Proceedings of this matter have been taken up for  
final hearing through video conferencing.
2. Petitioner's motor vehicle was found involved in  
commission of forest offence bearing PRO No.  
14078/05 under sections 53 and 57 of Indian

Forest Act, 1927 and it was accordingly seized by the competent authority and thereafter, on 03/12/2018, the authorized officer on exercise of power conferred under Section 52(a) of the Act of 1927 informed the jurisdictional Magistrate about the initiation of confiscation proceeding to the Judicial Magistrate 1<sup>st</sup> Class, Dharamjaigarh, Raigarh.

3. An application was filed by the petitioner under Section 451 of Cr.P.C. for grant of interim custody which was rejected by learned trial Magistrate and upheld by the revisional Court against which this petition under Section 482 of Cr.P.C. has been filed. Return has been filed opposing the petition stating that in view of Section 52-C of the Act, petitioner's application has rightly been rejected.

4. Mr. Surfaraj Khan, learned counsel for the petitioner, would submit that both the Courts below are absolutely unjustified in rejecting petitioner's application, as such, the impugned order deserves to be set aside.

5. On the other hand, Mr. Animesh Tiwari, learned Deputy Advocate General would support the impugned order and submit that since the

initiation of confiscation proceedings has been intimidated to jurisdictional Judicial Magistrate, therefore, Section 52-C of the Act of 1927 is squarely attracted and the present petition deserves to be dismissed as jurisdiction of concerned Magistrate is already ousted.

6. I have heard learned counsel for the parties, considered the rival submissions made hereinabove and went through the record with utmost circumspection.

7. In order to consider the plea raised at the bar, it would be appropriate to consider Section 52 of the Indian Forest Act substituted by the M.P. Amendment Act No. 1983 with effect from 1st November, 1983.

8. At this stage, it would be appropriate to notice Section 52-C of the aforesaid act:-

**"52C. Bar of Jurisdiction of Courts etc. in certain circumstances.**— (1) On receipt of intimation under sub-section (4) of section 52 about initiation of proceedings for confiscation or property by the Magistrate having jurisdiction to try the offence on account of which the seizure of property which is subject matter of confiscation, has been made, no Court, Tribunal or Authority (other than the authorised officer, Appellate Authority and Revision Authority referred to in sections, 52, 52A and 52B) shall have jurisdiction to make orders with regard to possession, delivery, disposal or distribution of the property in

regard to which proceedings for confiscation are initiated in this Act, or any other law for the time being in force.

*Explanation.*—Where under any law for the time being in force, two or more Courts have jurisdiction to try forest offence, then on receipt of intimation under sub-section (4) of section 52 by one of the Courts of Magistrate having such jurisdiction shall be construed to be receipt of intimation under that provision by all the Courts and the bar to exercise jurisdiction shall operate on all such Courts.

(2) Nothing in sub-section (1) shall affect the power saved under section 61."

9. A careful perusal of the aforesaid provision i.e. Section 52-C would show that when the forest produce and the vehicle is seized in commission of forest offence and proceedings for confiscation are initiated of which an intimation has been received under Section 52(4) of the Indian Forest Act, 1927 about initiation of proceedings for confiscation by the Magistrate having jurisdiction to try the offence, no Court, Tribunal or authority (other than authorized officer, Appellate Authority and the Court of Sessions referred in Sections 52, 52-A and 52-B) shall have jurisdiction to make orders with regard to possession, delivery, disposal of distribution of the property and as such section 451/457 of Criminal Procedure Code, 1973 will

have no application as jurisdiction to consider the said application is ousted.

10. Even otherwise, this issue is no longer *res integra* and stands authoritatively and conclusively adjudicated by their Lordships of the Supreme Court in the matter of **State of Madhya Pradesh v. Uday Singh**<sup>1</sup> in which their Lordships took note of the provisions contained in section 52-C of the Indian Forest Act, 1927 as substituted by State of Madhya Pradesh and clearly held that the jurisdiction under Section 451 of Criminal Procedure Code, 1973 is not available to the Magistrate once authorized officer initiate confiscation proceedings and it is intimated to the jurisdictional Magistrate being Judicial Magistrate First Class under section 52 (4) of the Act of 1927 and held as under :

“26. Our analysis of the amendments brought by MP Act 25 of 1983 to the Indian Forest Act 1927 leads to the conclusion that specific provisions have been made for the seizure and confiscation of forest produce and of tools, boats, vehicles and articles used in the commission of offences. Upon a seizure Under Section 52(1), the officer effecting the seizure has to either produce the property before the Authorised Officer or to make a report of the seizure Under Sub-section (2) of

---

1 A.I.R. 2019 SC 1597

Section 52. Upon being satisfied that a forest offence has been committed, the Authorised Officer is empowered, for reasons to be recorded, to confiscate the forest produce together with the tools, vehicles, boats and articles used in its commission. Before confiscating any property Under Sub-section (3), the Authorised Officer is required to send an intimation of the initiation of the proceedings for the confiscation of the property to the Magistrate having jurisdiction to try the offence. Where it is intended to immediately launch a criminal proceeding, a report of the seizure is made to the Magistrate having jurisdiction to try the offence. The order of confiscation Under Section 52(3) is subject to an appeal Under Section 52-A and a revision Under Section 52-B. Sub-section (5) of Section 52-B imparts finality to the order of the Court of Sessions in revision notwithstanding anything contained to the contrary in the Code of Criminal Procedure and provides that it shall not be called into question before any court. Section 52-C stipulates that on the receipt of an intimation by the Magistrate Under Sub-section (4) of Section 52, no court, tribunal or authority, other than an Authorised Officer, an Appellate Authority or Court of Sessions (Under Sections 52, 52A and 52-B) shall have jurisdiction to pass orders with regard to possession, delivery, disposal or distribution of the property in regard to which confiscation proceedings have been initiated. Sub-section (1) of Section 52-C has a non obstante provision which operates notwithstanding anything to the contrary contained in the Indian Forest Act 1927 or in any other law for the time being in force. The only saving is in respect of an officer duly empowered by the State government for directing the immediate release of a property seized Under Section 52, as provided in Section 61. Hence, upon the receipt of an intimation by the Magistrate of the initiation of

confiscation proceedings Under Sub-section (4)(a) of Section 52, the bar of jurisdiction Under Sub-section (1) of Section 52-C is clearly attracted. The scheme contained in the amendments enacted to the Indian Forest Act 1927 in relation to the State of Madhya Pradesh, makes it abundantly clear that the direction which was issued by the High Court in the present case, in a petition Under Section 482 of the Code of Criminal Procedure, to the Magistrate to direct the interim release of the vehicle, which had been seized, was contrary to law. The jurisdiction Under Section 451 of the Code of Criminal Procedure was not available to the Magistrate, once the Authorised Officer initiated confiscation proceedings.

27. The Madhya Pradesh amendments to the Indian Forest Act 1927 are infused with a salutary public purpose. Protection of forests against depredation is a constitutionally mandated goal exemplified by Article 48A<sup>19</sup> of the Directive Principles and the Fundamental Duty of every citizen incorporated in Article 51A(g)<sup>20</sup>. By isolating the confiscation of forest produce and the instruments utilised for the commission of an offence from criminal trials, the legislature intended to ensure that confiscation is an effective deterrent. The absence of effective deterrence was considered by the Legislature to be a deficiency in the legal regime. The state amendment has sought to overcome that deficiency by imposing stringent deterrents against activities which threaten the pristine existence of forests in Madhya Pradesh. As an effective tool for protecting and preserving environment, these provisions must receive a purposive interpretation. For, it is only when the interpretation of law keeps pace with the object of the Legislature that the grave evils which pose a danger to our natural environment can be suppressed. The avarice of humankind through the ages has resulted in

an alarming depletion of the natural environment. The consequences of climate change are bearing down on every day of our existence. Statutory interpretation must remain eternally vigilant to the daily assaults on the environment."

11. Reverting to the facts of the case in the light of principles of law laid down in aforesaid judgment in the matter of Uday Singh (supra), it is quite vivid that in the instant case the Authorized officer/DFO initiated confiscation proceeding of the vehicle owned by the petitioner and on 03/12/2018 informed the initiation of confiscation proceeding to the Judicial Magistrate First Class, Dharamjaigarh by its memo dated 03/12/2018 which is filed as Annexure R-2 with the return which states as under :

जप्तशुदा सम्पति, जो वन अपराध में प्रयुक्त की गई है,

उसको राजसात करने की कार्यवाही प्रारंभ करने की सूचना

---

न्यायालय, प्राधिकृत अधिकारी एवं उप वनमण्डलाधिकारी – लैलूंगा उप वनमण्डल

क्रमांक/शि.लि./प्रा.अ./राजसात/1498

/2018/लैलूंगा, दिनांक 3/12/2018

प्रति,

माननीय, न्यायिक दण्डाधिकारी

प्रथम श्रेणी, धरमजयगढ़, जिला-रायगढ़ (छ.ग.)

विषय:- पी०ओ०आर० क्रमांक – 14078/05, दिनांक – 03.12.2018 से जप्त अपराध करने में प्रयुक्त वाहन पिकअप, सफेद रंग का, बिना नम्बर का, चेचिस नं. MATZG2GAA51K39766 एवं इंजन नं. 0302AB0300N को राजसात संबंधी सूचना देने बाबत ।

विषयांतर्गत निवेदन है कि मैंने, भारतीय वन अधिनियम 1927 की धारा 33 (1) क छत्तीसगढ़ परिवहन अधिनियम 2001 की धारा 41 नि. (3). नि. 18 छ.ग. वनोपज व्यापार (विनियम) नियम 1969 की धारा 05 (1) छ.ग. वनोपज (व्यापार विनियम) काष्ठ नियम 1973 की धारा 3, 4 के तहत वन अपराध में प्रयुक्त होने वाली वाहन पिकअप, सफेद रंग का, बिना नम्बर का, चेचिस नं.

MATZG2GAA51K39766 एवं इंजन नं. 0302AB0300N को राजसात करने की कार्यवाही प्रारंभ कर दी गई है, जिसकी सूचना निम्नलिखित विवरण में दी जा रही है:-

| क्र. | विषय                                                                                                                        | विवरण                                                                                                                                                                                                          |
|------|-----------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.   | (अ) उस वस्तु का विवरण जिसको राजसात किया जाना प्रस्तावित है।<br>(ब) उन परिस्थितियों का संक्षिप्त विवरण जिसमें वह जप्त की गई। | वाहन पिकअप, सफेद रंग का, बिना नम्बर का मय वनोपज साल चिरान 40 नग = 0.720 घ.मी.<br>साल चिरान 40 नग = 0.720 घ.मी. वनोपज को अवैध परिवहन में संलिप्तता के कारण                                                      |
| 2.   | जप्तशुदा वस्तु के मालिक का नाम, पिता का नाम, निवास स्थान, पेशा आदि                                                          | नामालूम                                                                                                                                                                                                        |
| 3.   | उस व्यक्ति का नाम/पिता का नाम, निवासी जिससे कालम 'अ' में दर्शायी सम्पत्ति जप्त की गई                                        | नामालूम                                                                                                                                                                                                        |
| 4.   | जप्ती का दिनांक, समय, स्थान                                                                                                 | दिनांक 03.12.2018, समय 04:00 AM स्थान, तेजपुर परिसर के कक्ष क्र. 130 पी.एफ. के अंतर्गत पोलाईआंट नामक स्थल के शासकीय प्राथमिक शाला के मैदान के पास।                                                             |
| 5.   | उस अधिकारी का नाम/पद जिसने ऊपर वर्णित वस्तु जप्त की                                                                         | 1. श्री विनोद कुमार तिग्गा, (वनपाल) परिसर रक्षक तेजपुर<br>2. श्री डी.एस. उपाध्याय, (वनपाल) परिक्षेत्र सहायक बाकारूमा                                                                                           |
| 6.   | जप्त शुदा वस्तु का अनुमानित मूल्य                                                                                           | 13032 + 150000 = 163032/-                                                                                                                                                                                      |
| 7.   | अपराध/अपराधों का विवरण मय धारा व अधिनियम जिनके अंतर्गत अपराध हुआ है                                                         | भारतीय वन अधिनियम 1927 की धारा 33 (1) क छत्तीसगढ़ परिवहन अधिनियम 2001 की धारा 41 नि. (3). नि. 18 छ.ग. वनोपज व्यापार (विनिमय) नियम 1969 की धारा 05 (1) छ.ग. वनोपज (व्यापार विनियम) काष्ठ नियम 1973 की धारा 3, 4 |
| 8.   | सूचना प्रेषण का दिनांक                                                                                                      | 03.12.2018                                                                                                                                                                                                     |

सही/-

प्राधिकृत अधिकारी एवं  
उप वनमण्डलाधिकारी-लैलूंगा

पृ.क्रमांक/शि.लि./प्रा.अ./राजसात/1499 /2018/लैलूंगा, दिनांक 3/12/2018

प्रतिलिपि:- 1. वनमण्डलाधिकारी धरमजयगढ़ वनमण्डल को सूचनार्थ सादर सम्प्रेषित।

2. वन परिक्षेत्राधिकारी, बाकारूमा परिक्षेत्र को उनके पत्र क्रमांक 872, दिनांक 03.12.2018 के परिप्रेक्ष्य में सूचनार्थ अग्रेषित। आप प्रकरण की तत्थात्मक/विस्तृत जाँच कर, सम्पूर्ण प्रकरण इस न्यायालय में सात दिवस के अंदर प्रस्तुत करें। ताकि, आगामी कार्यवाही की जा सके।

सही/-

प्राधिकृत अधिकारी एवं  
उप वनमण्डलाधिकारी-लैलूंगा

12. Once the confiscation proceeding is initiated for confiscation of vehicle seized in forest offence and the initiation of confiscation proceeding has been informed under Section 52(4) of the Act of 1927 as amended by the State of Madhya Pradesh to concerned Magistrate, jurisdiction of Magistrate to grant interim custody under Section 451 is expressly barred and stand ousted by virtue of provision contained in Section 52-C of the Act of 1927.

13. Consequently, learned Session Judge is absolutely justified in affirming the order of learned Judicial Magistrate First Class refusing interim custody to the petitioner. I do not find any merit in this petition and it deserves to be and is accordingly dismissed. No order as to cost(s).

**Sd/-**  
**(Sanjay K. Agrawal)**  
**Judge**

Harneet