

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 747 of 2021**

- Smt. Devki (Wrongly Mentioned As Devki Bai In The Order Sheet) Chandrakar D/o Shri Horilal Chandrakar, Aged About 52 Years Caste - Kurmi, Occupation - Housewife, R/o Village - Jamgaon (R), Tahsil - Patan, District - Durg Chhattisgarh., ---- **Petitioner**

Versus

- State Of Chhattisgarh, Through - Station House Officer, Police Station - Bagbahra, District - Mahasamund Chhattisgarh. ---- **Respondent**

For petitioners	:	Mr. Dharmesh Shrivastava, Advocate.
For State	:	Mr. Gurudev I Sharan, Govt. Advocate

Hon'ble Shri Justice Narendra Kumar Vyas**Order on Board****28-09-2021**

1. Learned counsel for the petitioner would submit that as per information received on 4-12-2020 at about 5.45 pm that near National Highway 353, Pithoura Chowk, Bagbahara, one person was illegally transporting the liquor through vehicle Mahindra Scorpio CG 04-HX-6509. On such information the Police party raided the petitioner's son whereby the found 216 bulk liters of foreign made liquor and seized the same along with said vehicle. Thereafter a criminal case No. 1847 of 2020 was registered and the matter was pending before learned Judicial Magistrate First Class, Mahasamund who vide impugned order dated 4-9-2021 acquitted the said accused on the benefit of doubt as prosecution has failed to prove the allegations leveled against him.

2. Learned trial Court while acquitting the accused has recorded a finding that confiscation proceeding pending before learned Collector will be subject to decision of proceeding initiated by learned District Magistrate for releasing the vehicle on Supurdnama.
3. The petitioner has filed the present petition challenging the legality and propriety of the order dated 5-7-2021 (Annexure A/1) passed by the District Magistrate, Mahasamund whereby the application filed by the petitioner for releasing her vehicle on Supurdnama has been rejected and fixed the case on 9-7-2021 for filing reply of owner.
4. Learned counsel for the petitioner would submit that the main accused has already been acquitted, therefore, any continuation of proceeding for confiscation of vehicle will be nothing but to abuse of process of law. He would further submit that the impugned order dated 5-7-2021 is bad-in-law, in accordance with view taken by Hon'ble Supreme Court and by the Hon'ble High Court of Chhattisgarh whereby it was held that the machinery and vehicles should not be kept for a long time in an open place or in police custody but it should be given on interim custody/supurdnama./ He would further submit that since the proceedings are pending before learned District Magistrate, Mahasamund, he may be directed to conclude the proceedings expeditiously.

5. Prayer made by learned counsel for the petitioner appears to be just and proper.
6. Considering all the facts and circumstances of the case and further considering the fact that the son of the petitioner who was alleged to have been involved in the offence under Section 34 (2) of the Excise Act, has already been acquitted by the court of learned Judicial Magistrate First Class, Mahasamund, learned District Magistrate, Mahasamund is directed to expedite the confiscation proceedings initiated against the vehicle Mahindra Scorpio CG 04-HX-6509 of the petitioner within a period of three months from the date of receipt of a copy of this order. This court has not commented anything on the merits of the case. Learned District Mahasamund is directed to decide the case on its own merits, in accordance with law and the material available on record.
7. With the aforesaid observation and direction, the instant petition is disposed of.

Sd/-

(Narendra Kumar Vyas)
Judge

Raju