

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 763 of 2021

- Lukesh Patil S/o Late Bhuwan Lal Patil Aged About 35 Years R/o Village Khairjiti, Dihpara, Tahsil Dhamdha, District Durg Chhattisgarh. **---- Petitioner**

Versus

1. State of Chhattisgarh Through District Magistrate, Dhamtari , District Dhamtari Chhattisgarh.,
2. The Police Station Magarlod Through Its Station House Officer , Police Station Magarlod, District Dhamtari Chhattisgarh.

---- Respondents

For Petitioner : Mr. Pawan Kumar Kashyap, Advocate.
For State : Mr. Devendra Pratap Singh, Dy.A.G.

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

4-8-2021

1. This petitioner has filed this petition under Section 482 of Cr.P.C. against the order dated 22.06.2021 (Annexure P/1) passed by the Additional Sessions Judge, Dhamtari, District Dhamtari (C.G.) in Criminal Revision No. 15/2021 whereby the revisional court has dismissed the revision petition by affirming the order dated 25-5-2021 passed by learned Judicial Magistrate First Class, Kurud, District Dhamtari.
2. The case of the petitioner, in brief, is that the petitioner is the owner of Mahindra Harvester Vehicle Bearing registration No. CG-07-BT 7054 and Harvester, Mahindra Kit No. CG 07 BS 5112., The said vehicle of the petitioner was seized by the Police of Police Station Magarlod in connection with Crime No. 112 of 2021 for offence punishable under Section 304-A of IPC. He moved an application under Section 457 of Cr.P.C. for releasing his vehicle on Supurdnama. The said application was allowed by learned Judicial Magistrate First Class,

Bilaspur vide order dated 25.05.2021, directing the petitioner to deposit a sum of 5,00,000/- in cash or Bank guarantee of equivalent amount, as the vehicle was not insured at the time of accident and right of third party to claim compensation may be adversely affected, against which the petitioner preferred a revision. The learned revisional Court vide order dated 22-6-2021 dismissed the revision petition filed by the petitioner affirming the order dated 25-5-2021 passed by the learned Judicial Magistrate. Being aggrieved by the said order, the petitioner has preferred the present petition under Section 482 of the Cr.P.C. for quashing the orders passed by the court below.

3. Learned counsel for the petitioner would submit that both the Courts below have committed irregularity and illegality in passing the orders and also in relying upon Rule 240-A of the Chhattisgarh Motor Vehicles (Amendment) Rules, 1994 directed the petitioner to deposit the amount of 5,00,000/- 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. On the other hand, learned State counsel would submit that there is no irregularity and illegality in the order passed by both the Courts below and prayed that this petition may be dismissed.
5. I have heard learned counsel for the parties and the documents placed on record.
6. Before advertng to the submission made by learned counsel for the parties, it is expedient to examine Rule 240-A of the Chhattisgarh Motor Vehicles Rules, 1994 (for short “the Rules of 1994”), which is extracted below:-

“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. On bare perusal for the aforesaid rule, it is quite clear that if a motor vehicle is involved in the accident which is not insured at the time of accident causing death or physical injury to third party, then the Court should release the vehicle unless the owner of the vehicle furnishes the sufficient security to estimated compensation. This rule further provides that if the owner of the vehicle is not able to furnish the sufficient security for payment of compensation, then the vehicle can be auctioned and proceedings will go to the concerned claim

tribunal for payment towards compensation. The object of the amended rule is to secure the interest of the victim, who has suffered because of the vehicle driven in negligent manner.

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 5,00,000/- 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.
9. Accordingly, the present petition deserves to be and is hereby dismissed at motion stage itself.

Sd/-
(Narendra Kumar Vyas)
Judge

Raju