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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.14162 of 2021
Date of Decision: 03.11.2021**

TARUN KHAN

.....Petitioner

Vs

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Munfaid Khan, Advocate
for the petitioner.

Mr. Vivek Chauhan, Addl. A.G., Haryana.

RAJ MOHAN SINGH, J.(Oral)

Petitioner has preferred this petition for the issuance of an appropriate writ, order or direction especially in the nature of certiorari for quashing of orders dated 11.04.2019 and 26.02.2021 passed by Sub-Divisional Judicial Magistrate, Ferozepur Jhirka, District Nuh and Deputy Commissioner, Nuh, District Nuh respectively.

Brief facts of the case are required to be mentioned.

The FIR No.108 dated 13.03.2019 was registered under Section 5/13(2), 17 of the Haryana Gouvansh Sanrakshan and

Gausamvardhan Act, 2015, Section 120-B IPC and Section 11-59-60 of the Animal Cruelty Act, 1959 at Police Station Ferozepur Jhirka. Petitioner is the registered owner of vehicle in which the animals were being carried. The vehicle was apprehended and was taken into police possession.

Petitioner filed an application for release of vehicle on superdari during pendency of the case. The said application was rejected by Sub-Divisional Magistrate, Ferozepur Jhirka vide order dated 11.04.2019. The said order was assailed by way of criminal revision petition before the Court of Sessions at Mewat. The said revision petition was dismissed vide order dated 09.12.2019 on the premise that efficacious remedy was available to the revisionist.

The order dated 09.12.2019 passed by the Court of Sessions at Mewat was further assailed in CRM-M No.19304 of 2020. Though the said petition was dismissed vide order dated 01.10.2020, but liberty was given to the petitioner to avail remedy of appeal against confiscation order before the Appellate Authority i.e. Deputy Commissioner, Mewat. The benefit of exclusion of time while availing remedy before the wrong authority was also ordered. Thereafter appeal was filed before the Deputy Commissioner under Section 17(5) of the Act.

The appeal has been dismissed. In the present petition, the orders dated 11.04.2019 and 26.02.2021 passed by Sub-

Divisional Judicial Magistrate, Ferozepur Jhirka, District Nuh and Deputy Commissioner, Nuh, District Nuh respectively are being assailed.

Learned counsel for the petitioner makes a reference to the order dated 30.05.2017 passed in CWP No.19153 of 2016 titled 'Mainpal vs. State of Haryana and others' to contend that vires of the Act are under challenge. The State of Haryana is also in the process of making amendment in the Act.

Learned State counsel submits that the provisions of the Act have not been amended yet.

Learned counsel for the petitioner submits that the writ petition challenging the vires of the Act is still pending.

The CWP No.19153 of 2016 was disposed of leaving the prayer, challenging the vires of Section 17 of the Act. Meanwhile the vehicle in question was ordered to be released on superdari subject to the satisfaction of the concerned Court.

In view of aforesaid position, this Court also deems it appropriate to set aside the orders dated 11.01.2019 and 26.02.2021 passed by Sub-Divisional Judicial Magistrate, Ferozepur Jhirka, District Nuh and Deputy Commissioner, Nuh, District Nuh respectively. Ordered accordingly. The vehicle in question shall be released on superdari subject to the satisfaction of the Judicial Magistrate First Class, Ferozepur Jhirka, District Nuh.

With the aforesaid direction, the present petition is disposed of.

November 03, 2021	(RAJ MOHAN SINGH)
<i>Atik</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No