

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.353 of 2021

In

Civil Writ Jurisdiction Case No.8472 of 2020

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Anil Kumar Singh Son of Late Surya Keshwar Singh, resident of Mohalla-
Gaurakshani Sasaram, P.S.-Sasaram (Model), District-Rohtas.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Environment and Forest, Government of Bihar, Patna.
2. The Principal Secretary, Department of Environment and Forest, Government of Bihar, Patna.
3. The District Magistrate, Rohtas at Sasaram.
4. The Authorized Officer cum Divisional Forest Officer, Rohtas Forest Division, Sasaram, District-Rohtas.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajani Kant Singh, Adv.

For the Respondent/s : Mr. Sarvesh Kumar Singh, AAG -13

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

3 30-06-2022 Heard Mr. Rajani Kant Singh, the learned Advocate

for the appellant and Mr. Sarvesh Kumar Singh, the learned

Additional Advocate General-13.

The appellant, who is the owner of the vehicle
which has been seized and confiscated, has challenged the
order passed by the learned Single Judge in C.W.J.C. No.8472
of 2020. The grievance of the appellant is that like the other
Courts, the learned Single Judge also did not take into account



the fact that no attempt was made by the authorities to verify the genuineness of the challan through which stone-chips, which was alleged to be the forest produce, was purchased by the buyer.

It appears from the records that the vehicle belonging to the appellant was spotted by the Forest Officer while patrolling in the protected forest area, who immediately informed the Nokha Police Station to intercept the vehicle. The vehicle was intercepted and it was found that it was loaded with freshly hand broken stone-chips. Since, the vehicle was found to be crossing the protected forest area and was found to be laden with stone-chips, the vehicle alongwith the stone-chips were seized under the provisions of the Forest Act for violation of the notification prohibiting any quarrying in the protected forest area or transporting the forest produce including stone-chips, quarried from the protected forest area. The vehicle as well as the stone-chips were subjected to confiscation proceedings. The order of confiscation was passed by the Divisional Forest Officer which order has been sustained by the appellate as well as the revisional authorities.

The learned Counsel for the appellant has submitted that admittedly the vehicle was seized when it was parked on



the road and, therefore, it is only the presumption of the prosecuting agency/ forest authorities that it had crossed the forest area. The vehicle had been seized by Nokha Police. It has therefore been submitted that the accusation of the vehicle being intercepted on hot chase while it was coming out of the protected forest area is incorrect and only for the purposes of justifying the interception, the seizure and ultimate confiscation. He further submits that only because nobody came forward to claim the stone-chips, that would be no ground to presume that the appellant was the owner of the stone-chips, who actually has caused such transportation. Lastly, it was submitted that when a challan was produced to demonstrate that the stone-chips had been purchased from the market, without proper verification of the genuineness of the aforesaid challan, no adverse presumption could have been drawn.

Before the learned Single Judge, several case laws were cited in support of the contention that stone-chips cannot be said to be forest produce.

The learned Single Judge after having examined all such cases viz. *Alok Kumar Singh Vs. State of Bihar, 2019 (4) PLJR 1026; the Divisional Forest Officer, South*



Kamrum Division, Gauhati and others Vs. Moolchand Saraugi Jain, AIR 1971 Supreme Court 694; Bejiram Ingty Vs. State of Assam, AIR 1982 Gauhati 88 found that such declaration was in a different context which did not take into account that in the present case the stone-chips was found to be loaded on a vehicle which was intercepted when it came out of the protected forest area.

Taking into account the aforesaid facts viz. the seizure of the vehicle on hot chase, the same being loaded with stone-chips which was found to have been quarried from the protected forest area and nobody else coming forward to claim the stone-chips, the vehicle was seized and was confiscated.

The learned Single Judge therefore did not find any reason to interfere with the orders of the authorities.

Mr. Sarvesh Kumar Singh, the learned Additional Advocate General No. -13 has defended the order passed by the learned Single Judge by stating that the definition of forest produce in the Indian Forest Act, 1927 would include rock and minerals including limestone, laterite, mineral oils and all products of mines or quarries.

Apart from this, it has been submitted that in



exercise of the powers conferred under Section 29 of the Forest Act, 1927, a notification also has been issued declaring the Basantpur forest area as a protected forest.

Thus, it has been contended that there could be no other opinion except that the vehicle in question was transporting the forest produce in the shape of stone-chips and, therefore, there was nothing wrong in confiscating the same.

After having heard the learned Counsel for the parties, we have found that even the challan which was produced later, did not match with the statement made by the appellant. From the challan, it appears that the purchasers were Vidya Shankar and Vijay Singh. Since nobody came forward to claim the stone-chips and the appellant though only contested the confiscation of vehicle which stands in his name, it was not in any manner inappropriate to presume that the stone-chips was consciously being carried/transported by the vehicle, which stands in the name of the appellant and which has now been confiscated. Apart from this, the circumstances of the case clearly indicate that the vehicle was coming out of the protected forest area when it was intercepted. The provisions of the Forest Act, 1927 are



required to be strictly complied with and followed for the purposes of achieving the object for which the Act was enacted. Any other approach in the matter of confiscation would be uncalled for as it is likely to frustrate the provisions of the Act.

We further find that the forest authorities as also the appellate and the revisional authorities have given reasons to justify the interception and confiscation of the vehicle and the stone-chips which was loaded on it.

The learned Single has rightly distinguished the cases referred to above.

In all such cases, the stone-chips in question was not alleged to have been quarried from any forest area. Thus, any declaration of such stone-chips not being forest produce would not be relevant for the purposes of this case. The contention of the appellant that if at all any proceeding was required to be initiated against him, it was under the Bihar Minor Mineral Concession Rules, 1972 is not acceptable.

No sooner it is found that the stone-chips is quarried from the protected forest, it becomes a forest produce in terms of Section 2 of the Forest Act and the notification of the Government issued by exercising the powers under Section 29



of the Indian Forest Act.

We, thus, find no reason to interfere with the order
passed by the learned Single Judge.

The appeal stands dismissed.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

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