

17-02-2022
Subha
Item-34
Ct -.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

(Via video-conference)

C.R.R 3261 of 2017

In Re: An application under Sections 401 & 482 of the Code of Criminal Procedure.

In the matter of : ***The Additional General (Intelligence), DGGSTI(Hqrs.).***
...Petitioner.

Mr. Bhaskar Prosad Banerjee
Mr. Somnath Ganguli
Mr. Sukalpa Seal

....for the petitioner.

The petitioner/Authority, which is the Additional General (Intelligence), DGGSTI(Hqrs.), challenges the order dated 05.09.2017 passed by the learned Additional Chief Judicial Magistrate, Sealdah in connection with case no. C-86 of 2017.

Learned advocate appearing on behalf of the authorities submitted that the order passed by the learned A.C.J.M, Sealdah for return of the seized vehicle is against the provisions of the statute.

According to the learned advocate, there was a seizure by the Central Excise Authorities and consequent to that arrest was earlier made and proceedings commenced under Sections 9/9A/9AA of the Central Excise Act, 1944.

It has also been submitted that the return of the seized

vehicle is within the domain of the adjudicating authorities and a criminal court is not empowered to deal with the return of such vehicle which was seized in connection with case instituted or a seizure effected by the Central Excise Authority.

I have perused the order passed by the learned A.C.J.M, Sealdah. The said order reflects that the order was passed without affording any opportunity of hearing being granted to the Central Excise Authority. The reasons for return was also not assigned in the order, neither the point of law was taken into consideration whether the power to return the vehicle vested with the Department or the Judicial Magistrate before whom a case has been initiated.

It has been informed by the Central Excise Authorities that consequently there has been a provisional release of the vehicle by the Department which has been subject to the outcome of the adjudication proceedings. The vehicle has been taken back by the original owner.

In view of the submission so made, I am of the opinion that the order passed by the adjudicating authority on 13th October, 2017 will be considered to be the only order relating to the release of the vehicle and the order passed by the learned A. C. J. M., Sealdah, 24 Parganas(South) has no force in law.

Accordingly, the order dated 05.09.2017 is set aside. However, as observed above, the Authorities would abide by its order dated 13th October, 2017.

With the above observations, the revisional application being CRR 3261 of 2017 is partly allowed.

Documents submitted by the learned advocate appearing on behalf of the Department/Authorities is kept with the record.

All pending applications, if any, in connection with the revisional application, are consequently disposed of.

All concerned parties are to act in terms of a website copy of this order duly downloaded from the official website of this court.

(Tirthankar Ghosh, J.)

