

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.270 of 2022

Jagannath Behera* *Petitioner

Mr. B. Sahoo, Advocate

-versus-

State of Odisha* *Opp. Party

Mrs. Susamarani Sahoo
Addl. Standing Counsel

**CORAM:
JUSTICE S.K. SAHOO**

**ORDER
02.08.2022**

Order No.

04. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Heard learned counsel for the petitioner and learned counsel for the State.

This revision petition has been filed challenging the order dated 18.04.2022 of the learned S.D.J.M., Nayagarh in C.M.C. Case No.31 of 2022 in rejecting the petition filed by the petitioner under section 457 of Cr.P.C. for releasing the vehicle i.e. Alfa Passenger Auto bearing registration No.OD-25-E-2305 in his favour.

The learned S.D.J.M., Nayagarh in the impugned order has been pleased to hold that as per the report submitted by the Investigating Officer,

confiscation proceeding has been initiated against the aforesaid vehicle and it was further held that in view of the provision under section 72 of the Odisha Excise Act, the Court lacks jurisdiction to exercise the power under section 457 of Cr.P.C.

A detailed procedure has been laid down in the Odisha Excise Act, 2008 relating to the confiscation of the seized property which, inter alia, states about giving notice in writing to the person concerned from whom the property is seized informing him the grounds on which it is proposed to confiscate such property, an opportunity of making a representation in writing within a reasonable time and a reasonable opportunity of being heard in the matter. Provision has also been made as to what the aggrieved party is to do, if the order is passed against him under subsection (3) of the said Act. Section 72 of the Odisha Excise Act states that it would override the provision of Cr.P.C. and when the Collector or the authorized officer or the appellate authority is seized with the matter of confiscation or any seized property under section 71, no Court shall entertain any application in respect of the said property and the jurisdiction of the Collector or the authorized officer or the appellant authority with regard to the disposal of the same shall be exclusive. Therefore, when the petitioner will be afforded with an opportunity in the confiscation

proceeding to have to say and to contest the case, I find no illegality or impropriety in the impugned order.

Accordingly, the CRLREV stands dismissed.

Urgent certified copy of this order be granted on proper application.

(S.K. Sahoo)
Judge

RKM

