

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1146 of 2021

Parsuram Mohanta

Petitioner

Mr. C. Mohanty, Advocate

-Versus-

State of Odisha

.... Opposite Party

Mr. T.K. Praharaj, SC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
08.09.2022

Order
No.

05. 1. Heard learned counsel for the petitioner and learned counsel for the State.
2. Present petition under Section 482 Cr.P.C. is at the behest of the petitioner for setting aside the impugned order dated 7th June, 2021 passed in CMC No.03 of 2021 by the learned Additional Sessions Judge, Karanjia, Mayurbhanj who rejected the prayer for release of the vehicle bearing Chassis No.NHN30370ZHA375655, Engine No.S325H53098 and Trolley bearing Chassis No.EE1803 being involved in illicit transport of Laterite stones and for having been connected in a case registered under Section 379 read with Section 34 IPC and Rule 51 of OMMC Rules, 2016 on the grounds stated therein.
3. Perused Annexure-1, a copy of the sale certificate issued by M/s Abmica Enterprises and the letter of the Tahasildar, Jashipur addressed to IIC, Jashipur P.S. indicating therein as to the deposit of

Rs.50,000/- towards penalty for the alleged illegal transportation of stones in the vehicle in question.

4. Learned counsel for a the petitioner submits that both the court below have committed illegality by not releasing the alleged vehicle in favour of the petitioner notwithstanding production of the sale certificate i.e. Annexure-1 and the fact that there has been compounding of the offence on payment of penalty of Rs.50,000/- and presently the vehicle is lying within the premises of the P.S. expose to climatic conditions. It is further submitted that the learned Sessions Court declined to release the vehicle for not being registered ignoring the fact that it has been delivered to the petitioner by M/s. Ambika Enterprises on hire purchase lease basis on the strength of an agreement and hypothecation with Magma Finance Corporation Limited and in any case, no one approached the court below claiming its ownership and in such view of the matter and having regard to the guidelines set out by this Court in **Ashis Ranjan Mohanty Vrs. State of Odisha and Ors. MANU/OR/0021/2022** and other decisions, such as, **Ramachandra Bania Vrs. Gourahari Das MANU/OR/0234/1989** and **Aswini Kumar Das vrs. State of Odisha MANU/OR/0503/2022**, the vehicle should not be kept open exposed to wear and tear and ought to be released in the custody of the petitioner which is objected to by the learned counsel Mr. Praharaj appearing for the State on the ground that the vehicle did not have registration and it was being illegally used and was found illicitly transporting stones at the relevant time and therefore rightly the courts below refused to handed it over to the custody of the petitioner and hence it calls for no inference.

5. There is no denial to the fact that the vehicle was found transporting stones illegally at the time of seizure. It is also not in dispute that no one except the petitioner approached the learned S.D.J.M, Karanjia seeking custody of the vehicle. In fact, from the

impugned as at Annexure-1, it is made to reveal that the petitioner could not produce any document as to the ownership of seized tractor. However, the petitioner appears to have produced the sale certificate issued by M/s Ambika Enterprises of course under hypothecation with Magma Finance Limited whereupon in the considered view of the Court, the same could have been released in his favour as an interim measure till disposal of the case arising out of Jashipur P.S. Case No.155 of 2020. In other words, instead of keeping the vehicle exposed to sun and rain within the premises of the P.S. and when none approached claiming its ownership except the petitioner, who produced Annexure-1 and also the fact that the offences have been compounded as revealed from Annexure-3 as a result of which penalty of Rs.50,000/- has been deposited and having regard to the guidelines towards release of vehicles set out by this Court in **Ashis Ranjan Mohanty** case, the Court is of the view that the vehicle in question should be released in favour of the petitioner for the present with conditions.

6. Accordingly, it is ordered.

7. In the result, CRLMC stands disposed of with a direction for release of the Tractor bearing Chassis No.NHN30370ZHA375655, Engine No.S325H53098 and Trolley bearing Chassis No.EE1803 in favour of the petitioner subject to execution of indemnity bond and other conditions imposed by the learned S.D.J.M., Karanjia with an additional condition that he shall not dispose it of during the pendency of C.T. No.604 of 2020.

8. An urgent certified copy of this order be granted as per rules.

(R.K. Pattanaik)
Judge