

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.5312 of 2015

Pramod Kumar Jaiswal

....

Petitioner

Ms. A. Sahoo, Advocate on behalf of Mr. A. Das, Advocate

-versus-

State of Odisha

...

Opposite Party

Mr. Ishwar Mohanty, ASC

**CORAM:
THE CHIEF JUSTICE**

Order No.

**ORDER
02.09.2022**

- 05.
1. This petition under Section 482 Cr.P.C. has been filed for quashing of a judgment dated 23rd September, 2015 passed by the 1st Additional District Judge (ADJ), Rourkela dismissing the Criminal Revision No.3 of 2015 filed by the present Petitioner seeking release of the iron scrap items, which were seized from a dumper.
 2. The Petitioner claimed to be the owner of the scrap items, which had been carried on a truck without valid authority, way bills and receipts.
 3. The case of the Petitioner is that he had purchased the iron scraps from Gopal Traders in Lachargarh, District Simdeka on 27th September, 2013. The S.D.J.M., Panposh held that “there is no material to the effect that the articles seized in a dumper bearing No.OR 09 G 4636 on 26.12.13 are the part of the said stock duly purchased by the petitioner. The alleged materials are subject

matter of the dispute. The trial is going on. In the circumstances, release of the seized materials will not be proper. Hence, the petition stands rejected.”

4. That order was challenged in a revision petition before the learned 1st ADJ, Rourkela in Criminal Revision No.3 of 2015.

5. It was argued both before the learned ADJ as well as this Court that the articles were not stolen property and, therefore, should be released in favour of the Petitioner.

6. The 1st ADJ has noted in the impugned order that the truck, which transported the scrap, had no way bill; it was not authorised to transport any scrap purchased from any agency. The learned ADJ then concluded as under:

“6. Regard being had to the submission and after going through the records first of all it is seen that those scraps were seized from a dumper bearing No.OR 09 G 4636. The petitioner who filed the way bill reflects that a truck bearing No. JH 01 AV 5402 was authorized to transport the scraps. This truck bearing No. OR 09 G 4636 had no way bill, not authorized to transport any scraps purchased from any agency and it was transported to one Bajrang Steel Traders, Gurudwara Road, Sundargarh, Rourkela, not to this Bajrang Steel Traders TCI Chowk, Brahmanitarang, Vedvyas, Rourkela. So prima facie it appears from the way bill, challan and receipts that the seized articles are not the purchased articles under the receipt and way bill and challan. So I do not find any illegality in the order of the learned SDJM, Panposh in refusing to release the properties seized which are the subject matter of the theft and liable for confiscation to the State.xxx.”

7. Having heard learned counsel for the parties, the Court finds the situation even as of to be no different. The Petitioner is unable to produce any document to show that he is actually the owner of the

iron scrap seized from the aforementioned dumper truck. In the absence of any documentation, it is not possible to accede to the prayer of the Petitioner for release of the iron scrap materials in his favour.

8. No error has been committed by the learned 1st ADJ in dismissing the Petitioner's aforementioned Criminal Revision No.3 of 2015. There is accordingly no merit in the present petition and it is dismissed as such.

(Dr. S. Muralidhar)
Chief Justice

M. Panda

