

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3345 of 2022

Idreesh

....
Mr. S.K. Pattnaik, Advocate

Petitioner

-Versus-

State of Orissa

....
Mr. T.K. Praharaj, SC

Opposite Party

**CORAM:
MR. JUSTICE R.K. PATTANAİK**

**ORDER
08.12.2022**

Order
No.

01.

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

2. Instant petition under Section 482 Cr.P.C. is at the behest of the petitioner assailing the impugned order dated 30th August, 2022 passed in Criminal Revision No.2/11 of 2022 by the learned Additional Sessions Judge-cum-Special Judge (Vigilance), Keonjhar confirming the order dated 29th October, 2021 passed by the learned S.D.J.M., Keonjhar in CMC No.322 of 2021 on the grounds stated therein.

3. A copy of the FIR is at Annexure-1 and the same is perused by the Court and it reveals that on a report being lodged, Keonjhar Town P.S. Case No.362 was registered under Sections 468 and 471 IPC and other allied offences besides Section 11 of the Prevention of Cruelty to Animals Act and Section 7 of the Orissa Prevention of Cow Slaughter Act.

4. In fact, the petitioner approached the learned S.D.J.M. Keonjhar for release of the seized vehicle bearing registration No.HR67-B-9175 which was allegedly involved in the transportation of cattle and was seized by the local police later to which order under Annexure-3 was passed. The Court concerned releases the said vehicle subject to conditions as revealed from the Annexure-3. However, according to learned counsel for the petitioner, the vehicle was not released by the local P.S. and for such inaction of the local police, an application was moved before the learned S.D.J.M., Keonjhar for taking action against the IIC of the PS which was disposed of by an order dated 29th October, 2021 and the same was subsequently challenged in the revision under Annexure-5. It is contended by the learned counsel for the petitioner that despite an order of release vis-à-vis the seized vehicle, it was not honoured by the local PS, the fact which was brought to the notice of the court below but same yielded no result and hence the impugned order under Annexure-5 of the revisional court is under challenge before this Court.

5. As per the learned counsel for the petitioner, after the release order under Annexure-3, the local PS refused to hand over the custody of the petitioner on the ground that the chassis and engine numbers have been erased. The aforesaid fact was not drawn to the notice of the court of 1st instance which directed release of the vehicle under Annexure-3. Such disobedience of the court's order was intimated to the learned S.D.J.M., Keonjhar and subsequently, the challenged in Criminal Revision No.2/11 of 2022 before the Sessions court. However, as mentioned earlier, no action was taken against the local PS and the concerned IIC since the Sessions court was of the view that a contempt proceeding, in the facts and circumstances of case, cannot be initiated. Essentially, the challenge

relates to inaction of the local police for not releasing the seized vehicle despite an order the learned S.D.J.M. Keonjhar in CMC No.322 of 2021.

6. Mr. Praharaj, learned counsel for the State submits that after release order was passed in CMC No.322 of 2021, the fact of the engine and chassis numbers to have been erased was detected by the local police and therefore, it could not be released in favour of the petitioner. But, the fact of matter is, if at all there was any mischief with regard to the chassis and engine numbers, the same could have been brought to the notice of the learned S.D.J.M., Keonjhar which passed the release order in CMC No.322 of 2021. The petitioner of course moved an application to draw a contempt proceeding against the concerned IO and even went ahead to challenge the order under Annexure-4 before the learned Sessions court in Criminal Revision No.2/11 of 2022.

7. In the aforesaid backdrop, the court is of the view that the court of 1st instance ought to have been informed that the seized vehicle's chassis and engine numbers to have been erased. However, before it could be brought to the notice of the learned S.D.J.M., Keonjhar, the release order under Annexure-3 was passed. The copies of the report of the RTO and local PS are at Annexure-2 series for the Court's perusal. It is submitted by the learned counsel for the petitioner that since there was no such adverse material initially reported and thereafter the impugned order under Annexure-3 was passed, still the vehicle was not released on the alleged ground is unjustified. Under the circumstances narrated above, the Court is of the view that the learned S.D.J.M., Keonjhar is to reconsider the claim of the petitioner after examining the reports of the local PS as well as the RTO as at Annexure-2 series

and pass appropriate order after providing an opportunity of hearing to the petitioner. It is submitted by the learned counsel for the petitioner, the petitioner is the owner of the seized vehicle. In such an eventuality, the learned S.D.J.M., Keonjhar shall do well to consider and examine the claim of the petitioner being owner of the seized vehicle in juxtaposition to the reports of the local PS and the RTO and pass appropriate order thereon which would serve the purpose and meet the ends of justice.

8. Accordingly, it is ordered.

9. In the peculiar facts and circumstances of the case, without expressing anything on merits of the claim, the CRLMC stands disposed of with a direction to the learned S.D.J.M., Keonjhar to freshly examine the claim of the petitioner with reference to the reports received from the local PS and the RTO under Annexure-2 series and to pass reasoned order on the application filed by the petitioner under Section 457 Cr.P.C. as expeditiously as possible as preferably within a fortnight from the date of receipt of the copy of the above order keeping in view the provisions of the Prevention of Cruelty to Animals Act. As a necessary corollary, the impugned orders under Annexure-3 and 5 are hereby set aside.

10. Urgent certified copy of this order be granted as per rules.

(R.K. Pattanaik)
Judge