

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 3592 of 2022

Sebir Khan

....
Mr.Sougat Dash, Advocate

Petitioner

-Versus-

State of Odisha

....
Mr. Sitikanta Mishra, ASC

Opposite Party

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
05.12.2022

Order No.

02.

1. Heard Mr. Dash, learned counsel for the petitioner and Mr. Mishra, learned counsel for the State.
2. Instant petition under Section 482 Cr.P.C. is filed at the behest of the petitioner assailing the impugned order dated 18th October, 2022 passed in CMC No. 117 of 2022 under Anneuxre-1 by the learned JMFC, Betnoti on the grounds stated therein.
3. Mr. Dash, learned counsel for the petitioner submits that though the vehicle in question which was seized in connection with Betnoti P.S. Case No. 264 dated 28th August, 2022 registered under IPC offences besides Section 11(a)(d)(f)(h) of the Prevention of Cruelty to Animals Act and Section 7 of the Orissa Prevention of Cow Slaughter Act, there has been a direction for deposit of cash security to the tune of Rs. 2 lac besides indemnity bond of Rs.2.2 lac with other conditions which is onerous and therefore, to that extent, it is bad in law and

hence liable to be interfered within and set aside in the interest of justice.

4. Mr. Mishra, learned counsel for the State on the other hand submits that the impugned order under Annexure-2 needs no interference since because it is the statutory requirement for which such an amount has been directed to be deposited by the petitioner which is meant for maintenance, treatment and transportation of twenty two cattle recovered along with the seized vehicle which is revealed from the order itself, a copy of which is at Annexure-2.

5. On a reading of the impugned order under Annexure-2, the Court does not find as to on what basis such an assessment was made by the learned JMFC, Betnoti while directing the petitioner to deposit the cash security of Rs.2 lac besides a bond for an amount of Rs.2.2 lac. Though, it appears that the same has been for the maintenance, treatment and transportation of the seized cattle, the Court is of the view that proper assessment is necessary before a direction to the petitioner to deposit the expenses followed by release of the seized vehicle in his favour in terms of Section 457 Cr.P.C. In other words, a fresh determination is required and the learned court below to pass a reasoned order in that respect by considering all the aspects besides the expenses to be deposited by the petitioner.

6. Accordingly, it is ordered.

7. In the result, CRLMC stands allowed. As a necessary corollary, the impugned order in CMC No. 117 of 2022 dated 18th October, 2022 passed by the learned JMFC, Betnoti is hereby set aside to the extent indicated herein above. Consequently, the matter is remitted back to the court below for fresh determination vis-à-vis the amount to be

deposited by the petitioner towards the expenses and maintenance of the seized cattle before releasing custody of the seized vehicle bearing registration No. OD 01A0296 and the said exercise to be carried out after providing an opportunity of hearing to the parties including the Goshala or cattle shelter home where the cattle are presently kept and thereafter to pass appropriate order thereon as per and in accordance with law preferably within a week from the date of receipt of a copy of the above order.

8. Urgent certified copy of this order be issued as per rules.

