

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3665 of 2022

Sekh Israpil

....

Petitioner

Mr. Pravesh Chandra Jena, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. S.S. Mohapatra, ASC for State

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

07.12.2022

Order No.

- 01.
1. Heard learned counsel for the respective parties.
 2. Instant petition under Section 482 is filed by the petitioner assailing the impugned order dated 10th November, 2022 passed by the learned J.M.F.C., Jaleswar in Misc. Case No.131 of 2022 on the grounds stated therein.
 3. In fact, an application for release of the seized vehicle bearing Registration No.OD-04D-4019 was filed by the petitioner which was involved in transportation of cattle in the vehicle in question vis-a-vis C.T. Case No.379 of 2022 arising out of Jaleswar P.S. Case No.337 of 2022 for commission of offences under Sections 279, 429, 34 of IPC read with Section 11(1)(a) and 11(1)(d) of Prevention of Cruelty to Animals Act, 1960. However, the learned court below allowed the said application and directed release of the vehicle subject to conditions imposed including cash surety of Rs.2,20,570/- besides indemnity bond of Rs.2.1 lac.

4. Mr. Jena, learned counsel for the petitioner submits that the impugned order is not tenable in law and hence, the same should be interfered with.

5. Mr. Mohanty, learned counsel for the State on the other hand submits that the court below called for a report from the Goshala Seva Kendra and considering the same, the impugned order has been passed and therefore, it cannot be said to be unreasonable.

6. The Court perused the impugned order under Annexure-3. It is made to appear from the order of the learned court below that after considering the report of the Goshala Seva Kendra with regard to the expenditure to maintain the cattle, the vehicle was directed to be released, however, subject to the deposit of cash security and indemnity bond. The Court is of the view that the report was called for and the learned S.D.J.M., Sambalpur straightaway accepted it without any independent assessment made providing opportunity of hearing to the parties in particular the petitioner.

7. Accordingly, it is ordered.

8. In the result, the CRLMC stands allowed. As a necessary corollary, the impugned order dated 10th November, 2022 passed in Misc. Case No.131 of 2022 is hereby set aside. Consequently, learned J.M.F.C., Jaleswar is directed to reconsider the matter and examine it independently with reference to the report received and pass appropriate order as per and in accordance with law with liberty to both the sides to participate in the hearing of the case and to complete the entire exercise as expeditiously as possible.

9. Issue urgent certified copy of the order as per rules.

(R.K. Pattanaik)
Judge