

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54293 of 2023

Arising Out of PS. Case No.-524 Year-2022 Thana- AURANGABAD TOWN District-
Aurangabad

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MD. ASIF SON OF KARIMUDDIN RESIDENT OF VILLAGE - ALLIPUR,
DHANAURA, P.S. - GAJTOLA, DISTRICT - AMROHA (UTTAR
PRADESH)

... .. Petitioner/s

Versus

THE STATE OF BIHAR, PATNA

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Ms. Mukul Kumari, Advocate

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 29-08-2023 1. Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The learned counsel for the petitioner submits that
the present quashing application has been filed seeking quashing
of the part of the order dated 12.06.2023, passed by the learned
Additional District & Sessions Judge-II, Aurangabad in Cr. Rev.
No. 07/2023 arising out of Aurangabad Town in P.S. Case No.
524 of 2022 whereby the order dated 13.1.2023, passed by the
learned Chief Judicial Magistrate, Aurangabad in Aurangabad
Town P.S. Case No. 524 of 2022 for offence under Sections
11(1)(a) of Prohibition of Cruelty to Animal Act, 1960 read with
Sections 4, 4(A)(B) of the Bihar Preservation and Improvement
of Animal Act, 1955 had rejected the petition filed on behalf of



the petitioner under Section 451 of the Cr.P.C. for getting the truck released was set aside and the truck was released with a condition to deposit a cost of Rs. 7,34,100/- in favour of Maharshi Chyavan Foundation Gausala, Devkund, Aurangabad.

3. The learned counsel next submits no doubt the learned Additional District & Sessions Judge-II, Aurangabad in Cr. Rev. No. 07/2023 was pleased to release the truck of the petitioner which was rejected by the learned Chief Judicial Magistrate, Aurangabad in Aurangabad Town P.S. Case No. 524 of 2022 but then the petitioner is aggrieved by the condition imposed by the learned Additional District & Sessions Judge-II, Aurangabad for releasing the truck.

4. The learned counsel next submits that an FIR came to be instituted alleging that vehicle bearing Registration No. UP21BN 9323 is coming towards Daltonganj with illegal cattle, accordingly, the vehicle was apprehended and in the vehicle 35 cattle were found and Md. Farman and Md. Asif were also found in the truck and they disclosed that they would sell the cattle in their area and that the cattle were purchased in Sanda Animal Fair and also showed the receipts regarding the purchase of the aforesaid 35 cattle, it is next alleged that the cattle were kept with cruelty in the aforesaid vehicle.



5. The learned counsel further submits that what is not disputed rather stands admitted from the perusal of the allegation as alleged in the FIR that 35 cattle were found in the vehicle of which release is being sought. It is next submitted that the cattle were validly purchased from Sanda Animal Fair for which even receipts were shown to the informant and the police, but still the vehicle along with the cattle were seized. The learned counsel next submits that it absolutely does not stand to reason that if the cattle were validly purchased where was the question for the Authority to apprehend and seize the truck alongwith the cattle.

6. The learned counsel next submits that cattle were handed over to Maharshi Chyavan Foundation Gausala, Devkund, Aurangabad, it is next submitted that the petitioner accordingly, filed an application under Section 451 of the Cr.P.C. before the learned C.J.M. for releasing the vehicle on the ground that the petitioner is a transporter and his vehicle was hired by the purchasers of the cattle which were validly purchased for which even receipts were submitted to the Authorities but still the learned C.J.M. rejected the application for release against which Criminal Revision was filed and the learned Additional District & Sessions Judge allowed the



application but with a condition that petitioner has to pay an amount of Rs. 7,34,100/- to the concerned *gaushala*, on the ground that as per Rule of (Care and Maintenance of Case Property Animals) Rate of Care and Maintenance of Cows and Cattle is Rs. 200/day/animal and the Rate for Maintenance and Care for small animals is Rs. 150/day/animal, as such, since in the present case 35 cattle were seized, as such, as per Rules of *gaushala* the cost had to be computed from the date of seizure of the cattle i.e., 19.08.2022, till the date of the order of release, as such, an amount of Rs. 7,34,100/- became due which was directed to be paid by the petitioner to the *gaushala* towards the release of the truck since cattle were found in it.

7. The learned counsel next submits that the order is not sustainable as the petitioner being transporter was completely not associated with the cattle in any manner and the purchasers had valid receipt of the same but still the petitioner has been directed to pay an amount of Rs. 7,34,100/- to the *gaushala* for release of the truck.

8. The learned A.P.P., Mr. Chandra Bhushan Prasad, vehemently opposes the submission made by the learned counsel for the petitioner and submits that from perusal of the pleadings made in the Quashing Application it would manifest



that no application has been filed by any of the purchasers of the cattle for getting the cattle released, it is next submitted that if the cattles were validly purchased with proper receipt it absolutely does not stand to reason that why no case came to be filed for their release, it is also submitted that police after investigation submitted charge-sheet indicting the petitioner and others, accordingly, the truck was seized. It is thus submitted that since the cattle were put in the care of the *gaushala* from the date of seizure, accordingly, the learned Sessions Judge while releasing the truck ordered for payment of the aforesaid amount to the *gaushala* as per Rules, it is next submitted that there is no infirmity in the order passed by the learned Additional District & Sessions Judge and thus requires no interference.

9. Considering the submissions made by the learned A.P.P., the Court is not inclined to entertain the Quashing Application and thus the quashing application is rejected.

(Satyavrat Verma, J)

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