

Form J(1)

**IN THE HIGH COURT AT CALCUTTA  
Criminal Revisional Jurisdiction  
Appellate Side**

**Present :  
The Hon'ble Justice Bibek Chaudhuri**

**CRR 3536 of 2022**

**Rina De @ Rina Dey  
Vs.  
State of West Bengal**

**For the petitioner : Mr. Soumya Basu Ray Chowdhury,  
Mr. Soumyajit Das Mahapatra,  
Mr. M. Sinha.**

**For the State : Mr. S. S. Imam,  
Mr. R. Jana.**

**Judgement on : 20.02.2023.**

**Bibek Chaudhuri, J.**

The instant revision is directed against an order dated 14<sup>th</sup> September, 2022 passed by the learned Additional Chief Judicial Magistrate, Jhargram in GR Case No. 833/2022 arising out of Nayagram Police Station Case No. 115/2022 dated 16<sup>th</sup> August, 2022 under Sections 406/420/120B of the Indian Penal Code and 7(1)(a)(ii) of the Essential Commodities Act, 1955.

It is submitted by the learned Advocate for the petitioner that the petitioner filed an application for return of her vehicle bearing registration no. WB 493715 along with all connected documents which

were seized in connection with GR Case No. 833/2022 arising out of Nayagram Police Station Case No. 115/2022.

It is submitted by the learned Advocate for the petitioner that if essential commodities is transported by a vehicle or any other conveyance it is subjected to confiscation. Section 6E of the Essential Commodities Act creates a bar of jurisdiction in certain cases. The Section runs thus:-

[ **6E. Bar of jurisdiction in certain cases.** – Whenever any essential commodity is seized in pursuance of an order made under Section 3 in relation thereto, or any package, covering or receptacle in which such essential commodity is found, or any animal, vehicle, vessel or other conveyance used in carrying such essential commodity is seized pending confiscation under section 6A, the Collector, or, as the case may be [the judicial authority appointed under section 6C] shall have, and notwithstanding anything to the contrary contained in any other law for the time being in force, [any other Court, Tribunal or authority] shall not have, jurisdiction to make orders with regard to the possession, delivery, disposal, release or distribution of such essential commodity, package, covering, receptacle, animal, vehicle, vessel or other conveyance.]

It is submitted by the learned Advocate for the petitioner that till date no confiscation proceeding has been initiated in respect of the above-mentioned seized vehicle by the Collector of the concerned jurisdiction.

Learned Advocate for the State of West Bengal, on the other hand, has referred to the relevant page of the case diary where the Investigating Officer submitted a prayer before the learned Additional Chief Judicial Magistrate, Jhargram stating, inter alia, that he has

already made appropriate application before the concerned authority to confiscate the seized materials and the vehicle vide letter dated 28<sup>th</sup> August, 2022. However till date the Collector of the concerned jurisdiction has not initiated any confiscation procedure. It is held by the Bombay High Court in State of Maharashtra –Vs.- Manish Kumar reported in 1986 Cr.L.J. 303 that application for release filed in Court or Tribunal is maintainable if no confiscation proceeding under Section 6A or Section 6C are pending under the Act. The embargo contained in Section 6E arises only when a confiscation proceeding is initiated. Since no confiscation proceeding is initiated no such embargo restricts the Court to release the vehicle on the application of the registered owner of the same.

In view of such circumstances, the instant revision is disposed of directing the learned Additional Chief Judicial Magistrate, Jhargram to decide the issue afresh in the light of the observation made hereinabove relating to application of Section 6A to 6E of the Essential Commodities Act and if no appropriate proceeding is initiated, he is entitled to release the vehicle in accordance with law.

The instant revision is, thus, disposed of.

Case diary be returned.

The learned Additional Chief Judicial Magistrate is directed to dispose of the application, if any, within three weeks from the date of communication of this order.

The petitioner is at liberty to act on the server copy of the order.

**(Bibek Chaudhuri, J.)**