

25.5.2023
Sl No.2
Ct.No.6

CRR 3899 of 2022

Mithun
G.S.Das

In Re: - An application under Section 482 read with Section 401 of the Code of Criminal Procedure, 1973.

And

In the matter of: Sujit Halder

....petitioner.

Mr. Sayan De
Mr. Sayan Kanjilal
Mr. Koustav Shome

...for the petitioner.

Mr. Rudradipta Nandy
Mr. Suman De

... for the State

The instant revisional application has been filed against an order dated 25.07.2022 passed in connection with G.R. Case No. 1584 of 2022 arising out of Hanskhali Police Station Case No. 377 of 2022 dated 23.04.2022 under Sections 379/411/34 of the Indian Penal Code, 1860 read with sections 26(1)(f)/41(1)/42 of the Indian Forest Act, 1927.

Learned Advocate for the petitioner submits that the Learned Trial Court has erroneously passed the impugned order stating the incapacity of the Court to release the Truck-in-question in favour of the owner of the same, who is suffering financial loss, has to pay the EMI in connection with the Truck which requires proper maintenance and imminently requires directions to release the truck.

Learned Advocate for the petitioner relies on two decisions cited in *(2002) 10 SCC 283* and *(2022) SCC Online Cal 640*.

Learned Advocate for the State submits that the instant revisional application is not maintainable since the petitioner has to file an appeal from the impugned order before the Court of Sessions

in view of Section 52A of the Indian Forest Act, 1927.

Learned Trial Court in its order dated 25.7.2022 has correctly stated that "... the entitlement of the petitioner to get return of the seized truck in its custody after due ascertainment of its ownership shall have to be decided only after completion of the confiscation proceeding. But at this stage, when confiscation proceedings are pending, the petitioner is not entitled to get return of the same and hence his present application does not merits to be allowed."

In the facts and circumstances of the case the remedy of the petitioner relies in invoking the provision stipulated in Section 52A of the Indian Forest Act, 1927.

The Learned Trial Court is requested to take necessary measure in initiating the confiscation proceeding as expeditiously as possible.

CRR 3899 of 2022 is **disposed of** accordingly.

Let a copy of this order be communicated to the Learned Trial Court.

All parties to act on a server copy of this order, duly obtained from the official website of the Hon'ble High Court Calcutta.

(Ananya Bandyopadhyay, J.)