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Ct. No. 3

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side
C.R.R. 26 of 2022**

In the matter of : Nandalal Kumar @ Nandlal Kumar

Mr. Debasish Mukhopadhyay
Mr. Anirban Banerjee

....Petitioner

Mr. Aditi Shankar Chakraborty
Mr. Sourav Ganguly

...For the State

Being aggrieved by and dis-satisfied with the judgment and order dated 5th January, 2021 passed by the learned Sessions Judge, Jalpaiguri in connection with Criminal Revision No. 41 of 2020 arising out of order dated 10th September, 2020 passed by the learned Chief Judicial Magistrate, Jalpaiguri in C.R. Case No. 112 of 2020 corresponding to POR No. 113 of/BLC of 2019-20 dated 11th March, 2020 under Section 41/42/76 of the Indian Forest Act, 1927 read with Section 3 of the Prevention of Damage to Public Property Act, 1984, present application under Section 482 of the Code of Criminal Procedure, 1973 has been preferred.

Before the Trial Court the petitioner filed two petitions for return of the seized vehicle and by the said application the petitioner claimed to be the owners of a vehicle being registration No. BR 52 G-0683.

It is alleged that the said vehicle along with two other vehicles bearing No. BR 06 GD-6855 and NL 01 AD-0956 had been allegedly found carrying huge quantity of unaccounted timber and accordingly they were seized by the forest officials upon proper seizure list and eight persons, who were found carrying the said contraband items were arrested. Subsequently, PR has been submitted under Sections

33(1)/41/42/76 of the Indian Forest Act, 1927 read with Section 3 of the Prevention of Damage of Public Property Act, 1984 with West Bengal Forest Produce Transit Rules, 1959, against eight accused persons.

Before the Trial Court, owners of all the three seized vehicles prayed for return of the same on the ground that sufficient time has lapsed since seizure and even investigation has been completed. Learned Trial Court after hearing both the parties was pleased to reject the petitioners' prayer for return of the seized vehicles.

Being aggrieved by that order present petitioner preferred Revisional application before the Court of the learned Sessions Judge at Jalpaiguri. Learned Sessions Judge was pleased to dismiss the said Revisional application. One of such ground for rejection was that no document was produced before the learned Chief Judicial Magistrate in order to substantiate the claim of ownership of the said vehicle. It was also admitted before the Revisional Court by the learned Lawyer for the revisionist that the documents in support of right to get back the vehicle were shown but not filed. No document related to ownership of the vehicle was placed on record before the learned Chief Judicial Magistrate / Court of first instance in order to substantiate the claim of the said vehicle. Learned Revisional Court was of the view that the learned Chief Judicial Magistrate / Court of first instance rightly rejected the application made by the petitioner herein.

Mr. Anirban Banerjee, learned Counsel appearing on behalf of the petitioner submits that they have sufficient documents in support of their right to get back the seized vehicle being No. BR 52 G-0683, but due to miscommunication, the said documents were not produced before the Courts below and for which the petitioner seeks for granting him liberty to file all the relevant documents before the Court concerned for fresh consideration of his prayer.

Mr. Sourav Ganguly, learned Counsel appearing on behalf of the State submitted, if the present application filed under Section 482 of the Code of Criminal Procedure is disposed of in terms of said prayer, he has no objection.

In such view of the matter, C.R.R. 26 of 2022 is hereby disposed of giving liberty to the petitioner herein to file relevant documents in support of his claim, before the learned Court of first instance within a period of 30 (thirty) days from the date of communication of this order and in the event of filing such documents by the petitioner before the Court, the Court concerned will dispose of said application seeking return of the seized vehicle afresh, in accordance with law within a period of 30 (thirty) days thereafter, without being influenced by any observation made herein.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, on priority basis on compliance of all usual formalities.

(Ajoy Kumar Mukherjee, J.)