

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.466 OF 2023

SUBHASH SHIVRAM KEDAR  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

Mr. A. A. Mundhe, Advocate for the petitioner  
Mr. V. S. Badakh, APP for the respondent/State

**CORAM : R. M. JOSHI, J.**

**DATE : 18<sup>th</sup> OCTOBER, 2023**

**P.C. :-**

1. By order dated 22/09/2021 passed in Criminal Application No. 689/2021 application filed by petitioner herein for custody of two bulls was rejected by learned JMFC, Dhule and direction was given to take appropriate action against the petitioner for his act of negligence as well as as cruelty to these animals. The said order was challenged unsuccessfully before the Revisional Court. Being aggrieved by both these orders present petition is filed.

2. It is the contention of the petitioner during Covid-19 Pandemic since he was going through financial crises, he decided to sell two bulls. It is his further claimed that the day on which he took bulls to the Cotton market, Dhule, the market was closed. At that time he learnt that there was a market wherein the sale and purchase of animals is done. He therefore went to the spot. At that time police arrived at spot. As there

was chaos the petitioner left two bullock and fled away from the spot. Thereafter, the said animals remained unattended and as they were wander around, the police had admitted them in the Gaushala.

3. Learned counsel for the petitioner submits that a notice was issued to the petitioner by Aazhadnagar Police Station informing that the unclaimed animals are admitted in Navkar Gaushala on 13/07/2021. It is his submission that he filed an application before the Magistrate for return of the said animals. The learned Magistrate not only rejected the application but also has directed the concerned police station to take action against the petitioner with the observation that living both bulls unattended on the road amounts to cruelty to the animals. The said order came to be challenged before the learned Addl. Sessions Judge, Dhule in Criminal Revision Application No. 69/2021 and the said application was also rejected.

4. Learned APP submits that the prosecution has objected the deliver of the said cattles to the petitioner on the ground that the receipts sought to be placed on record to move ownership of animals are forged and that not only there is cruelty caused by the petitioner but also there was attempt to slaughter them.

5. Perusal of the order passed by learned Trial Court does not show that the said objection of the prosecution and Gaushala challenging the

ownership of the petitioner over the said cattle was accepted. On the contrary observations are made that the act of the petitioner herein of leaving bulls and running away from the spot amounts to cruelty towards the animals. By making such observations direction was given to the concerned police station to take appropriate action against him. It is thus clear that the learned Magistrate has accepted the ownership of the petitioner over the said cattle.

6. Perusal of the notice issued by the concerned Police station to the present petitioner indicates that the said cattles were not seized in connection Crime No. 171/2021 wherein it was alleged against the accused wherein that they subjected the animals with cruelty. Even otherwise there is no allegation against the petitioner that he has subjected the animals with cruelty or the animals were taken for the purpose of slaughtering. Application before Magistrate clearly explained the circumstances in which he left the spot. Having regard to the same, it cannot be called as animals were treated with cruelty as contemplated by Section 11 of Prevention of Cruelty to Animals Act, 1960. Thus, there is no justification to deny custody of animals to owner and to initiate action against him.

7. In view of this, munged order dated 22/09/2021 is set aside. Criminal M.A. No. 689/2021 stands allowed. Since animals are not seized

in connection with any crime, no conditions are imposed for release animals. Animals be given in to custody of petitioner forthwith.

**(R. M. JOSHI, J.)**

ssp