

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 3037 OF 2023

Jayvant Vrundavan Gopalan Gosanvardhan Sanstha Through Kishor Mahadev Nimbalkar	..Petitioner
Versus	
State of Maharashtra & Anr.	..Respondents

Ms. Darshika Vasani a/w. Raju Gupta i/b. Neelam Yadav for
Petitioner.
Mr. A. R. Patil, APP for State/Respondent No.1.
Mr. Abhijit Kadam for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.
DATE : 15 SEPTEMBER 2023

PC :

1. The Petitioner has challenged the order dated 02.09.2023 passed by the Additional Sessions Judge, Satara, in Criminal Revision Application No.59 of 2023. The learned Judge by the impugned order allowed the criminal revision application filed by the Respondent No.2 herein and directed interim custody of the 18 buffaloes seized in Crime No.306 of 2023 registered with Lonand police station to be handed over to the Respondent No.2 on his executing an indemnity bond.

2. Heard Ms. Darshika Vasani, learned counsel for the Petitioner, Mr. A. R. Patil, learned APP for the State/Respondent No.1 and Mr. Abhijit Kadam, learned counsel for the Respondent No.2.

3. The F.I.R. was lodged because 19 buffaloes were found being transported in a truck in a cruel manner. The F.I.R. was lodged vide C.R.No.306 of 2023 at Lonand police station on 13.07.2023, U/s.11(1) and 11(1)(d) of the Prevention of Cruelty to Animals Act, 1960.

4. The Respondent No.2 made an application before the Judicial Magistrate, F. C., Phaltan, U/s.457 of the Cr.p.c. for custody of those buffaloes. The learned Magistrate, vide his order dated 19.07.2023 rejected that application and directed the Investigating officer to handover the custody of 18 buffaloes to the nearest *Gaoushala*/Panjarpol.

In all 19 buffaloes were taken charge of. One of them died. The remaining 18 buffaloes were given in the custody of the present petitioner on 21.07.2023 and till today they are in custody

of the petitioner. In the meantime, the Respondent No.2 preferred Criminal Revision Application No.59 of 2023 before the Additional Sessions Judge, Satara. The said application was allowed vide the impugned order dated 02.09.2023.

5. The main grievance of the Petitioner is that, though the animals are in custody of the petitioner, they were not made the parties in the Criminal Revision Application No.59 of 2023 before the Additional Sessions Judge, Satara and, therefore, the impugned order was passed behind their back. They were not heard. Learned counsel for the Petitioner submitted that, in the interest of justice and in consonance with the principles of natural justice, they were a necessary party who should have been heard at the time of deciding the criminal revision application.

6. Learned counsel for the Respondent No.2 made certain submissions regarding the merits of the matter and in particular about his bonafide ownership of the animals.

7. Learned APP accepted the factual situation mentioned herein above.

8. Considering this situation and the submissions made before this court, it would be appropriate if the said impugned order is set aside and the Criminal revision application is remanded back on the file of the Additional Sessions Judge, Satara for fresh consideration after hearing the petitioner. This would be in the interest of justice and this would be in accordance with principles of natural justice. It is made clear that, I have not made any observations on the merits of the matter.

9. Hence, the following order:

O R D E R

- i) The order dated 02.09.2023 passed by the learned Additional Sessions Judge, Satara, in Criminal Revision Application No.59 of 2023 is set aside.
- ii) The said criminal revision application is remanded back on the file of the Additional Sessions Judge, Satara, for fresh consideration.
- iii) The Respondent No.2 shall add the present petitioner as a party respondent in that criminal revision application.

- iv) The said criminal revision application shall be heard afresh after giving opportunity to all the sides.
- v) The application shall be decided in accordance with law; without being influenced by the earlier order dated 02.09.2023.
- vi) The Criminal revision application shall be decided expeditiously.
- vii) Till the criminal revision application is decided, status-quo be maintained.
- viii) With these observations, the petition is disposed of.

(SARANG V. KOTWAL, J.)