



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 634 OF 2024

Farukhulla Fahim Ulla -Vs-State of Maharashtra and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. Taranjeet H.Bewali, Advocate for the petitioner/s.
Mr. Ujwal Phasate, A.P.P for respondent Nos.1 to 3.

**CORAM: NITIN W. SAMBRE AND
MRS.VRUSHALI V. JOSHI, JJ.**

DATE : 3rd DECEMBER, 2024.

1. Heard.
2. The petitioner claimed to be the owner of a commercial vehicle bearing registration No.MH-40/CM/6598, which was found to be involved in the theft of sand.
3. As a sequel of above, the offence came to be registered for an offence punishable under Sections 379 and 109 of the Indian Penal Code and the vehicle was accordingly seized.
4. The learned Magistrate was pleased to pass an order of releasing of the vehicle on supratnama in the aforesaid Crime No.28 of 2024.

5. Post the execution of bond, the vehicle was handed over to the petitioner, however, the revenue authorities took charge of the vehicle and the same is presently kept for the purpose of security in the custody of the police station.

6. The Revenue Authorities before taking custody of the vehicle on 30/03/2024 has taken recourse to the proceedings under the Maharashtra Land Revenue Code, 1966(for short the “MLR Code”) and has saddled penalty on the petitioner, which he has failed to deposit in this case. The petitioner has neither questioned the revenue proceedings nor the order which has led to the attachment of his vehicle under Section 478 of the MLR Code. It is claimed by the learned counsel appearing for the petitioner that, the Revenue Authorities have no lien over the vehicle of the petitioner and as such the vehicle is directed to be released in favour of the petitioner.

7. A reliance is also placed on the judgment of Single Bench of this Court in the matter of Criminal Writ Petition N0.1000 of 2019 (Mangesh Eknath Shinde Vs. The State of Maharashtra) decided on 11/09/2019, so also the

judgment of the Hon'ble Apex Court in the matter of *Abdul Vahab Vs. State of Madhya Pradesh* reported in **2022 DGLS (SC)257**.

8. It is claimed that this Court so also the Hon'ble Apex Court has held that the respondent Revenue Authorities have no authority to detain the vehicle in their custody for recovery of the dues.

9. At the outset, we are required to be sensitive to the fact that post order of supratnama passed by the Court of Magistrate on 21.03.2024, the petitioner executed a bond on 28.03.2024 and accordingly, Police Authorities in Crime No.28 of 2024 has released the vehicle on 30/03/2024.

10. In the interregnum, it was noticed that the petitioner has indulged into the aforesaid offence, which has resulted into violation of the provisions of the Maharashtra Minor Mineral Extraction (Development and (Regulation)Rules, 2013. The proceedings for recovery of the penalty and the royalty was initiated. Accordingly, the adjudication was carried out and it was ordered that the petitioner is liable to pay an amount of Rs.4,67,800/-

pursuant to the provisions of Section 48 (7) and 48(8), 48(2) of the MLR Code.

11. The fact remains that till this date, the petitioner has not questioned the order passed by the Tahsildar.

12. As a sequel of above, if we appreciate the action of the respondent pursuant to the provisions of Section 176 (C) of the MLR Code, the process of recovery of arrears of land revenue can be carried out by attaching movable property. As a sequel of above, the petitioner's movable property viz. the vehicle in question came to be taken in custody.

13. In absence of challenge to the aforesaid orders passed by the Revenue Authorities, we are unable to appreciate the contentions of the learned counsel for the petitioner as regards to the illegality of the orders passed by the Revenue Authorities.

14. In this background, we deem it appropriate to reserve the right of the petitioner to question the orders of the revenue authorities in appropriate proceedings which

can be dealt with in accordance with law.

15. As far as the judgments cited in the matter of Criminal Writ Petition NO.1000 of 2019 (Mangesh Eknath Shinde Vs. The State of Maharashtra) decided on 11/09/2019, so also the judgment of the Hon'ble Apex Court in the matter of *Abdul Vahab Vs. State of Madhya Pradesh*, supra are concerned, we are inclined to be sensitive to the fact that the petitioner is neither acquitted in the offence of theft of sand nor is the petitioner able to demonstrate that the order of Revenue Authorities, wherein the penalty is saddled, were set aside or questioned by him.

16. In such an eventuality, the law laid down in the aforesaid judgments will not come to the rescue of the petitioner so as to substantiate his contention in the petition.

17. That being so, we dismiss the writ petition with liberty as observed herein.

(MRS. VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)