



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

CRIMINAL WRIT PETITION NO.674 OF 2024

Dhyan Foundation thr. its authorized representative Sachin Gurunath Zunjarrao
(Vs.)

The State of Maharashtra and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. K.S. Motwani, Advocate for the petitioner.
Mr. S.B. Bissa, APP for the respondent/State.

CORAM : G.A. SANAP, J.

DATE : 03.12.2024

Heard learned Advocate for the petitioner
and learned APP for the respondent/State.

2. Respondent No.2 though served is absent.

3. Learned Advocate for the petitioner submits
that custody of the cattle is with the petitioner.

4. It is pointed out that principal allegation
against respondent No.2 is that five cows and five
bullocks were being transported for the purpose of
slaughtering. It is submitted that therefore the offence
under Section 5 (A)(B) read with Section 9 of the

Maharashtra Animal Preservation Act, 1976 has been registered. It is submitted that learned Magistrate has not properly appreciated the provisions of Section 8 (3) (a) of the Maharashtra Animal Preservation Act, 1976.

5. The Perusal of the order would show that learned Magistrate has not at all adverted to the provisions of Section 8 of the Maharashtra Animal Preservation Act, 1976. The proviso to subsection 3 of Section 8 of the Maharashtra Animal Preservation Act, 1976 reads thus:-

“Provided that pending trial, seized cow, bull or bullock shall be handed over to the nearest Gosadan, Goshala, Panjrapole, Hinsa Nivaran Sangh or such other Animal Welfare Organizations willing to accept such custody and the accused shall be liable to pay for their maintenance for the period they remain in custody with any of the said institutions or organizations as per the orders of the court.”

6. In view of this proviso, the seized cows, bulls, bullocks etc. shall be handed over to nearest Gosadan, Goshala, Panjrapole etc.

7. The accused and owner of vehicle is liable to pay for the maintenance of seized cattle. It is evident on perusal of the order that learned Magistrate has ordered the release of cattle to respondent No.2. Learned Magistrate has not issued any direction for payment of maintenance charges.

8. In view of this, the order cannot be sustained. Accordingly, the order below Exh.1 dated 16.08.2024 passed by learned Judicial Magistrate, First Class Court No.2, Kamptee is set aside.

9. The matter is remitted back to the learned Magistrate for deciding it afresh in accordance with law.

10. In view of the aforesaid, Criminal Writ Petition stands **disposed of**.

JUDGE