

14.11.2025

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CRR 812 of 2025

In the matter of : Dhayn Foundation Gaushala.
.... petitioner.

Mr. Vinay Kr. Shraff
Mr. Dev Kr. Agarwal
Mr. Abhilash Mishra
.... for the petitioner.

Mr. Sourav Koley
... for the opposite party No.2

Mr. Bibhasan Bhattacharyya
Ms. Debjani Sahu
... for the State

1. The report, as produced on behalf of the State, is kept on record.
2. This revisional application has been filed challenging the legality and/or propriety of the order dated 11th February, 2025, passed by the Learned Additional Sessions Judge, Second Court, Howrah, in Criminal Revision No. 03 of 2025. The said revision had been preferred against the order dated 31st December, 2024, passed by the Learned Chief Judicial Magistrate, Howrah, in connection with Sankrail P.S. Case No. 934 of 2024 dated 3rd December, 2024 corresponding to G.R. Case no. 6099 of 2024. By the order dated 11th February, 2025, the learned Court directed grant of interim custody of 39 cattle to opposite party no. 2, namely, Jalauddin Mondal, upon execution of a Zimm-Nama bond of Rs. 10,00,000/- before the learned trial court, on the conditions that he shall properly maintain the

cattle, produce them as and when required, and shall not sell them until disposal of the G.R. Case no. 6099 of 2024.

3. Before examining the issue arising for consideration in the present revisional application, it would be apposite to refer to the essential facts leading to its filing.
4. On 3rd December, 2024, one S.I. Susanto Roy lodged a complaint before Sankrail P.S., Howrah, inter alia, alleging that, upon receiving information from a source regarding transportation of a large number of cattle in an overcrowded and inhumane condition, he along with some colleagues proceeded to verify the information and intercepted a truck bearing No. WB12BG-3045. The truck was intercepted and, upon inspection, it was found that a significant number of cattle were being transported in an overcrowded condition. Many of the animals were in distress, showing signs of severe malnourishment and exhaustion, and when questioned, the individuals travelling in the truck failed to produce any documents showing their authority to transport the cattle.
5. It was also alleged in the FIR that the truck lacked the basic provisions necessary for carrying such a large number of cattle over a long distance. Considering the deplorable conditions in which the cattle were being transported, the complainant lodged a complaint alleging violation of Section 11 of the Prevention of Cruelty to Animals Act, 1960 and Rules 47(a)/49(a)/51/52/56 of the Transport of Animals Rules, read with Sections 223/303(2)/317(2)/325 of the Bharatiya Nyaya Sanhita, 2023 (for short, BNS, 2023).

6. Based on such complaint, Sankrail P.S. Case No. 934 of 2024 dated 3rd December, 2024 was started. In the course of investigation, custody of approximately 59 cattle was taken by the investigating authority. The record reveals that on 6th December, 2024, the Investigating Officer presented an application before the Learned Chief Judicial Magistrate, Howrah, with a prayer for grant of custody of those 59 cattle to a Non-Government Organization (NGO), namely Dhyan Foundation Gaushala, Jharkhand. The order dated 7th December, 2024 passed by the Learned Chief Judicial Magistrate, Howrah indicates that such prayer was accepted and charge of those cattle was handed over to Dhyan Foundation, the petitioner herein.
7. On 18th December, 2024, two different persons, namely opposite party no. 2 herein and another individual, filed separate applications seeking return of the 59 cattle. Opposite party no. 2 claimed ownership over 39 of the cattle, while the other individual claimed ownership of the remaining 20. However, by an order dated 31st December, 2024, both applications seeking return of the 59 cattle were rejected.
8. Aggrieved by that order, both petitioners, including opposite party no. 2, preferred a revision before the Learned Sessions Judge, Howrah, which was ultimately transferred to the Court of the Learned Additional Sessions Judge, 2nd Court, Howrah, for disposal. By an order dated 11th February, 2025, the learned Court directed return of 39 cows in favour of petitioner no. 2; however, the prayer of the

other individual for return of the remaining 20 cattle was rejected.

9. Challenging the justifiability of that order dated 11th February, 2025, the present revisional application has been preferred.
10. Mr. Shraff, learned advocate representing the petitioner, Dhyan Foundation Gaushala, drawing my attention to the contents of the FIR, argued that 59 cattle were being transported in a single truck in an overcrowded and cruel manner. Referring to Rule 50 of the Transport of Animals Rules, 1978, he submits that the average space provided per cattle in a railway wagon or vehicle shall not be less than two square metres. Moreover, at the time of transporting any cattle, a valid certificate from a veterinary surgeon and other necessary amenities, including water and medicines, should also be kept in the vehicle.
11. Inviting my attention to certain photographs, he submits that the photographs themselves reveal that 59 cattle were transported in a cruel manner in a single truck. He submits that, in the present case, an offence punishable under Section 11 of the Prevention of Cruelty to Animals Act has been committed. He contends that interim custody of the cattle should not be handed over to the present petitioner. He submits that although these issues were urged before the learned court below, they were overlooked, and the learned court below arrived at an erroneous finding and directed return of the cattle to opposite party No. 2.
12. In rebuttal, Mr. Koley, learned advocate representing opposite party No. 2, submits that opposite party No. 2

operates a dairy farm and the income from the farm is his only source of livelihood. He submits that while taking the cattle from the cattle hut to his farm, the police intercepted him on the way and falsely implicated him in this case. He has produced a document in support of his claim that he is the owner of 39 cattle.

13. Mr. Bhattacharyya, learned advocate appearing for the State, submits that steps were taken to hand over the interim custody of the cattle in compliance with the order passed by the Learned Additional Sessions Judge. However, the Opposite party no. 2 could not produce any document to establish his ownership of the 39 cattle. He further submits that, subsequently, during the course of hearing, the petitioner produced a document; however, the genuineness of that document is not beyond doubt and shall ultimately be decided by the learned trial court. He submits that, in such circumstances, it would not be appropriate to hand over the cattle to opposite party no. 2.

14. Heard the learned advocates appearing for the respective parties and perused the materials on record.

15. As mentioned earlier, there was an allegation that 59 cattle were being transported in a single truck in an overcrowded and cruel manner. Based on the complaint lodged by S.I. Susanto Roy, a criminal proceeding was initiated against the petitioner for the offences punishable under Section 11 of the Prevention of Cruelty to Animals Act, 1960, and I have been informed that the charge-sheet has been submitted after conclusion of the investigation.

16. It has been submitted on behalf of the State that, at the time when steps were taken by the investigating agency to hand over the interim custody of 39 cattle to opposite party No. 2, he failed to produce any convincing document to show ownership of those 39 cattle. As a prima facie case was made out, the charge-sheet was submitted against opposite party No. 2 and another person, who has not approached this Court seeking return of the remaining 20 cattle.
17. In a decision of **Raguramsharma & Anr. vs. C. Thulsi & Anr.**¹ taking note of the fact that the 30 numbers of animals were being transported in a vehicle in a cruel manner, the Hon'ble Supreme Court was pleased to refuse to handover the interim custody of the animals to the accused person during pendency of the trial. In another unreported decision rendered in a case of **State of U.P. Vs. Mustakeem & Ors**², noting that the animals were being transported for the purpose of being shorter and in a cruel manner, the Hon'ble Supreme Court refused to hand-over the interim custody to the accused person during the pendency of the trial.
18. Therefore, relying on the principles laid down in the aforesaid two judgments and considering the facts and circumstances of the present case, including the allegation that 59 cattle were being transported in a single truck in an overcrowded and cruel manner and in violation of the provisions of the Prevention of Cruelty to Animals Act, 1960 and the Transport of Animals Rules, I am of the view that it

¹ Criminal Appeal No. 230 of 2020

² Criminal Appeal No. 283-287/2002

would not be appropriate to hand over the interim custody of the 39 cattle to opposite party no. 2 during the pendency of the trial. The learned court below overlooked this crucial aspect and arrived at an erroneous finding. Accordingly, the order dated 11th February, 2025 is set aside, and the order of the Learned Chief Judicial Magistrate, Howrah, dated 31st December, 2024 is upheld.

19. It is needless to observe that the petitioner shall take all sorts of necessary steps for maintenance of the cows in proper manner and shall abide by the decision that would be taken by the learned trial court in respect of those cattle. The learned trial court is directed to dispose of the trial as expeditiously as possible without granting unnecessary adjournment to either of the parties.
20. The learned trial court shall proceed with the trial without being influenced by any of the observation made in the order keeping in mind that those observations have been made only for the purpose of disposal of the present revisional application.
21. With these observations and order, the revisional application is, thus, disposed of.

(Partha Sarathi Chatterjee, J.)