

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CWP-24399-2022

Date of Decision : February 10, 2025

NAWAB KHAN

-PETITIONER

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Satish Chaudhary, Advocate
for the petitioner.

Mr. Bhupender Singh, D.A.G., Haryana.

KULDEEP TIWARI, J. (ORAL)

1. The instant writ petition encompasses prayer for setting aside the order dated 05.11.2018 (Annexure P-2), whereby, the Sub Divisional Magistrate, Rewari, has ordered to confiscate the vehicle/truck bearing Registration No. HR-74A-7175 (hereinafter referred to as the 'vehicle in question') under Section 17 of The Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 (hereinafter referred to as the 'Act of 2015'). Moreover, the instant writ petition encloses prayer for setting aside the order dated 26.03.2019 (Annexure P-1), whereby, the petitioner's statutory appeal preferred against the confiscation order (supra) has been dismissed by the appellate authority concerned.

2. Succinctly stated; the prosecution's case is that, on the intervening night of 15/16.03.2016, when the police party, while performing night patrolling duty, reached the outskirts of Sabi Bridge on Rewari-Delhi Road, they received a secret information that the vehicle in question, which is owned by the petitioner, is being used for cattle smuggling. The secret informer

also disclosed that Shokin, Irshad, Aarif and Sadik are involved in this cattle smuggling through the vehicle in question. Based on this secret information, the police party laid barricading, however, the driver of the vehicle in question damaged the barricading and drove the vehicle in question towards wrong side. The police party chased the vehicle in question, however, the latter's driver caused a head on collision with the police's vehicle. Subsequently, the occupants of the vehicle in question, upon finding themselves to be trapped in traffic jam, abandoned the vehicle in question and fled away from the spot by taking advantage of the darkness. Upon checking the vehicle in question, 27 cows and 5 bulls were found loaded therein. Consequently, FIR No.85 dated 16.03.2016, under Sections 307/332/353/186/120-B of the IPC and 13(2) of the Act of 2015 and 3 of the Prevention of Damage of Public Property Act, 1984, was registered at P.S. Dharuhera, District Rewari, and, finally the vehicle in question was confiscated vide the impugned confiscation order.

3. It would be apt to record here that, one of the accused Shokin died during pendency of trial, hence the proceedings qua him were dropped, and, one of the accused Wasim Akram has earned acquittal. Now, trial in respect of only two accused is pending.

4. The learned counsel for the petitioner, in his assailing the impugned orders, submits that the same have been passed on the basis of assumptions and presumptions. The prosecution is not seized of any concrete evidence to invite the mischief of the Act of 2015. Nonetheless, even as per the allegations, the vehicle in question was being used only for cattle transportation and there is no evidence with the prosecution to claim that the cattle were being transported for slaughtering. Hence, without any cogent evidence, the authority concerned has, merely presuming the transportation of cattle being made for

slaughtering, ordered confiscation of the vehicle in question, which is impermissible in law.

5. Finally, the learned counsel for the petitioner submits that, since one of the accused Wasim Akram has already been acquitted by the trial Court, therefore, the prosecution's story of cattle being transported for slaughtering gets demolished.

6. On the other hand, the learned State counsel, in his attempt to defend the impugned orders, submits that the recovery of other articles is also required to be considered. He submits that, a knife, 27 cows and 5 bulls were recovered from the vehicle in question, which clearly shows that the cattle were being transported for slaughtering.

7. This Court has heard the rival submissions of the learned counsels for the parties and also perused the record. This Court is of the opinion that the impugned orders require interference inasmuch as the authority concerned has penned down no discussion of evidence or reasons for its arriving at a conclusion that the cattle were being transported for slaughtering purpose. The impugned orders are completely silent on this aspect and hence does not pass the test of legality.

8. In summa, the instant writ petition is **allowed**. The impugned orders are set aside and the vehicle in question is directed to be released in favour of its registered owner after following the requisite statutory procedure.

February 10, 2025
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No