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State of Karnataka Vs. Anand Manjunath Pai

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Court : Karnataka

Decided On : Jul-14-1988

Reported in : ILR1988KAR3051; 1988(2)KarLJ211

Judge : M.S. Patil, J.

Acts : Code of Criminal Procedure (CrPC) , 1973 - Sections 457

Appeal No. : Criminal Petn. No. 218 of 1987

Appellant : State of Karnataka

Respondent : Anand Manjunath Pai

Advocate for Def. : Umesh R. Malimath, Adv.

Advocate for Pet/Ap. : C.H. Jadhav, Govt. Pleader

Judgement :
ORDER

1. The Judicial Magistrate, 1st Class, Dharwar, by order dated 25-6-1986 passed in Kalaghatgi P.S. Cr. No. 63 of 1982, having directed to release the vehicle seized to the respondent and the same having been confirmed, on revision, by the Principal Sessions Judge, Dharwar, in Criminal Revision Petition No. 132 of 1986, by his order dated 19-11-1986, the petitioner State has presented this petition.

2. The vehicle bearing registration No. MEW 8098, which was allegedly used in transporting the Sandalwood, was seized by the Police during investigation on 18-6-1986 from Unkal garrage. Accordingly, a report, regarding the same, was sent to the Magistrate. On the respondent-owner of the vehicle making an application under S. 457 Cr.P.C. for the interim custody of the vehicle, he directed to entrust the custody of the vehicle so seized to the respondent on certain conditions, on the ground that the vehicle was not seized together with the forest produce by his order dated 25-6-1986.

2A. Being aggrieved, when the State preferred a revision before the Principal Sessions Judge, Dharwar, he also, agreeing with the Magistrate, held that the Magistrate had jurisdiction to make an order regarding the interim custody of the vehicle under S. 457, Cr.P.C. inasmuch as the vehicle was not seized alone with the forest produce. Accordingly, he having dismissed the revision, being aggrieved, the State has presented this petition.

3. Both the Courts below appear to think that the provisions of S. 71(G) of the Karnataka Forest Act, would come into play only when the vehicle is seized along with the forest produce. That reasoning seems to be erroneous. In the context in which the words 'together with' have been used in S. 71(G) of the Act, it appears it is not necessary that the seizure of the vehicle should be simultaneous with the seizure of the forest produce; because according to the Dictionary meaning, the expression together with means as 'as well as' or 'and also'. When so understood, whether the seizure of the vehicle was simultaneous with the seizure of the forest produce or not or whether they were seized separately, do not make any different, the provisions of S. 71(G) of the Act came into play and the Magistrate, therefor, will have no jurisdiction to make any such order of the disposal of the property.

4. The petition is, therefore, allowed. The impugned orders of the Courts below are set aside. The respondent is directed to produce the vehicle to the surety bond executed by him, before the authorised forest officer. However, having regard to the fact that the respondent has been in possession of the vehicle since the release order made in his favour on 25-6-1986, the concerned authority shall consider to entrust the custody of the vehicle to the respondent, pending disposal

of the confiscation proceedings before him.

5. Petition allowed.

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