

Deevan Arjun Singh Vs. State and anr.

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Court : Madhya Pradesh

Decided On : Oct-18-2002

Reported in : 2003CriLJ3685

Judge : Narain Singh "Azad", J.

Acts : Code of Criminal Procedure (CrPC) , 1974 - Sections 451

Appeal No. : M.Cr.C. No. 3839 of 2000

Appellant : Deevan Arjun Singh

Respondent : State and anr.

Advocate for Def. : R.A. Robertson, P.L.

Advocate for Pet/Ap. : Vijay Nayak and ;J.S. Singh, Adv.

Judgement :

ORDER

Narain Singh 'Azad', J.

1. Petitioner's Supurdgi application under Section 451 of the Cr. P. C., stood disallowed by C.J.M., Narsinghpur, on 7-3-2000, and the petitioner remained unsuccessful on 2-6-2002, in his Criminal Revision No. 33/2000, also wherein, his challenge to the order dated 7-3-2000, passed by C.J.M., stood negatived by

Special Judge (Atrocities), Narsinghpur, therefore, he seeks quashment of both the aforesaid orders and interim custody of his Armada Jeep, bearing No. M.P. 19-A/3322, in exercise of inherent powers.

2. It is found detailed by Revisional Court in its order dated 2-6-2002, that on 10-9-99, a patrolling party of Forest Officers intercepted Armada Jeep bearing No. M. P. 19-A/3322, on National Highway No. 12, near Tendukheda, while coming from Peepar-wani, who on search found that Shivraj, father of this petitioner, Beni Singh and Ashok Kumar were occupying the seats. These Forest Officers found fresh pieces of flesh in a bundle and some cooked flesh also in steel tiffin. On enquiry, it was learnt that one spotted Deer was killed and some of its flesh was cooked at the residence of Hemraj, resident of village Peeparwani, and the rest of the flesh was being taken in the Jeep. The Forest Officials registered a P.O.R., for offences punishable Under Sections 9, 39B, 39D, 51(2) and 54(4) of Wild Life (Protection) Act, and arrested the accused persons. They further seized the jeep, the cooking utensils and the flesh found in the jeep. Arjun Singh, who claims to be the registered owner of the vehicle, filed a Supurddgi application in the Court of C.J.M. Narsinghpur, which stood rejected on the grounds that the vehicle is already confiscated by D. P.O. Narsinghpur.

3. The petitioner who is the registered owner of the jeep; claims the interim custody on the strength of Madhukar Rao v. State of M. P., reported in (2000) 1 MPLJ 289, wherein, it is dictated by a Full Bench of this Court in para 23 at page 299 that--

'We hold that any property including Vehicle seized on accusation or suspicion of commission of an offence under the Act can, on relevant grounds and circumstances be released by the Magistrate pending trial in accordance with Section 50(4) read with Section 451 of the Code of Criminal Procedure, 1973. We also hold that mere seizure of any property including vehicle on the charge of commission of an offence would not make the property to be of the State Government under Section 39(1)(d) of the Act.'

It is also found explained by the Full Bench that--

'In order that the seized property may be treated as property of the State, there should be a finding by the competent Court that vehicle seized has been used for committing an offence, The property seized under Section 50 of the Wild Life (Protection) Act for an alleged offender cannot become property of the State under Clause (d) of Section 39(1) unless there is a trial and a finding reached by the competent Court that the Property was used for committing an offence under the Act.'

4. Since the criminal case in respect of aforesaid P.O.R. is not disposed of, therefore, so far there is no finding of competent Court on the fact that the vehicle seized has been used for committing an offence, therefore, on mere conclusion of confiscation proceeding by D.F.O. Narsinghpur, on 18-10- 99, which is stated to have resulted in forfeiture of petitioner's jeep, does not by itself take away the Jurisdiction of learned C.J.M. Narsinghpur, in considering petitioner's application of interim custody. Consequently, the order, dated 7-3-2000, passed by C.J.M. Narsinghpur, on petitioner's Supurdgi application so also order dated 2.-6-2000, passed by Special Judge (Atrocities), Narsinghpur, in petitioner's Criminal Revision No. 33/2000, are set aside and the C.J.M. Narsinghpur, is directed to dispose of the petitioner's Supurdgi application afresh, in the light of the aforesaid legal position.