

Maharaj Singh Vs. State

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Court : Rajasthan

Decided On : Feb-10-2006

Reported in : RLW2006(2)Raj1341

Judge : Harbans Lal, J.

Acts : Wild Life Protection Act, 1972 - Sections 29 and 51; [Code of Criminal Procedure \(CrPC\), 1973](#) - Sections 457 and 482

Appeal No. : S.B. Cr. Misc. Petition No. 275 of 2006

Appellant : Maharaj Singh

Respondent : State

Advocate for Def. : Jagdish Lamba, PP

Advocate for Pet/Ap. : Manoj Awasthi, Adv.

Judgement :

Harbans Lal, J.

1. The instant misc. petition under Section 482 Cr.P.C. seeks quashing/modification of the order dated 7.5.2005 passed by the learned Additional District & Sessions Judge, Dholpur in Criminal Revision No. 55/2005 whereby the order dated 28.4.2005 passed by the learned Civil Judge (Jr. Div.)-

cum- Judicial Magistrate, Bari, District Dholpur in Criminal Case No. 206/2005 for offence under Section 29/51 of the Wild Life Protection Act has been upheld after modification.

2. Learned counsel for the petitioner has contended that he is the owner of Tractor No. RJ 11-R7 49G alongwith trolley and the said tractor and trolley were seized by the police in connection with offence under Section 29/51 of the Wild Life Protection Act. The allegation against him is that he illegally transported the Chambal Sand (Bajri) from Chambal Crocodile Area. It is further contended that on his application for release of the said tractor and trolley on supurdaginama, the learned Magistrate allowed the application and directed the release of the said tractor and trolley on furnishing of a bank guarantee in the sum of Rs. 3,50,000/- alongwith supurdaginama and a surety in the like amount with certain conditions. Being aggrieved by the said order, he filed a revision petition on the ground that there was no statutory requirement to furnish any bank guarantee. The said revision petition was partly allowed and the order dated 7.5.2005 was modified and the amount of bank guarantee was reduced to Rs. 30,000/- in place of Rs. 3,50,000/- and the rest of the order was maintained. Being dissatisfied with the said order, he has invoked the inherent jurisdiction of this Court vested under Section 482 Cr.P.C. It is also submitted that there is no statutory requirement to furnish bank guarantee for release of tractor and trolley.

3. Learned PP has also not disputed the contention of the learned Counsel for the petitioner.

4. Reference in this regard has been made to Ram Babu v. State of Rajasthan, SB Criminal Misc. Petition No. 1328/2005 decided on 24.10.2005 wherein the vehicle has been released without furnishing of bank guarantee.

5. I have carefully considered the submissions made at the bar and have also perused the relevant record as well as the order cited by the learned Counsel for the petitioner.

6. Since there is no statutory requirement about filing of bank guarantee, there is no need to impose condition of furnishing of bank guarantee for release of the

vehicle under Section 457 Cr.P.C.

7. In this view of the matter, therefore, and following the law laid down in the aforementioned case of Ram Babu v. State of Rajasthan '(supra)', the condition of furnishing a bank guarantee by the petitioner for release of the tractor and trolley is set aside. The tractor and trolley shall be released and handed-over to the petitioner on his furnishing a supurdaginama in the sum of Rs. 30,000/- with the stipulation to keep it Intact in the condition it is taken on supurdaginama and shall produce it in the court as and when required and shall not transfer it to anybody else in any manner whatsoever and shall place on record photographs of the tractor and trolley showing their numbers, colour etc.

8. This criminal misc. petition stands disposed of accordingly.

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