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Phool Singh Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Dec-17-1985

Reported in : 1986WLN(UC)249

Judge : Kanta Bhatnagar, J.

Appeal No. : S.B. Criminal Revision No. 314 of 1985

Appellant : Phool Singh

Respondent : State of Rajasthan

Judgement :

Kanta Bhatnagar, J.

1. Heard learned Counsel for the petitioner and learned Public Prosecutor.

2. In this revision petition the order dated November 19, 1985 passed by the Munsif and Judicial Magistrate, District Jodhpur is being challenged on the ground that if the truck in question is not entrusted to the petitioner Phoolsingh, who is the registered owner of that vehicle, he would suffer irreparable loss, both because of the amount of the instalment of debt of the Bank with which the truck is hypothecated, not being paid and also because of the truck getting damaged in case of its lying idle in Police custody. Learned Public Prosecutor contested the petition on the ground that this truck had been seized thrice including in the

present incident in this very year for the same offence i.e. transporting wood from the forest. Learned Public Prosecutor agreed that there is possibility of the truck being damaged because of its lying idle in police custody. His apprehension however is that in case the truck is entursted to the owner-petitioner, he will allow it to be used for the same purpose for which it has been seized by the police in the present case. An affidavit sworn in by Phool Singh has been filed today containing there in that he is prepared to take the entrustment of the truck on any condition imposed by the court, because in case the truck is not given to him, it would not be possible for him to deposit Rs. 5,500/-,per month with the Punjab National Bank, Jawahar Nagar, Jaipur, with whom the truck is hypothecated. If a vehicle is time and again used for same alleged illegal act the court commits no mistake in refusing entrustment of the truck to the owner. However, in the present case as evident from the order, and not disputed by the learned Public Prosecutor, the owner of the truck was not the driver at any time, nor was he found there in the truck, However, for that reason only he is not absolved of the responsibility of the truck being used for illegal purposes.

3. In view of the facts and circumstances of the case mentioned in the petition and the affidavit filed today, I am of the opinion that if the truck is entrusted to the petitioner with the condition that it would be his personal responsibility to see that the truck is not used for any illegal purpose and also that he would not allow the truck to be driven by the persons who had been driving it when on the three occasions it was seized for the offence under the Forest Act, the truck may be entrusted to the petitioner Phoolsingh on his furnishing a bond of Rs. 50,000/- with two sureties of Rs. 25,000/- each to the satisfaction of Munsif and Judicial Magistrate, Jodhpur District, Jodhpur to produce the truck before the court whenever and wherever required to do so and also to the efiect that he would not in any way part with the ownership of the truck during the pendency of the present case. The petitioner shall file the bond and the surety according to this order in the court of Munsif and Judicial Magistrate, Jodhpur District Jodhpur to this satisfaction and will then be entitled to the entrustment of the truck. The order dated 19-11-1985 is set aside. The revision petition is disposed of accordingly.

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