

Raj Kumar Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Feb-10-1986

Reported in : 1986WLN(UC)250

Judge : Milap Chand Jain, J.

Appeal No. : S.B. Criminal Misc. Petition No. 212 of 1985

Appellant : Raj Kumar

Respondent : State of Rajasthan

Disposition : Appeal allowed

Judgement :

Milap Chand Jain, J.

1. Heard learned Counsel for the parties.
2. This petition is directed against the order dated 15-7-1985 whereby the learned Magistrate rejected the application for granting time to produce the vehicle in question. Consequently, the bond & surety bond were cancelled and proceedings under Section 446 were ordered to be opened. The learned Magistrate also ordered for the forfeiture of the vehicle.

3. A complaint was made under Section 42 and 123 of the Motor Vehicles Act and in that case on account of non-production of the vehicle, the above order was passed. It may be stated that the law did not warrant the forfeiture of the vehicle. At the most, the vehicle could be ordered to be seized and produced before the court but vehicle could not be confiscated or forfeited. It is true that the application was not accompanied with an affidavit and it was also not stated as to why the vehicle was out of order but still the learned Magistrate should have afforded one opportunity for the production of the vehicle. What for the vehicle was needed is nowhere stated by the learned Magistrate in the impugned order. In any case, the order passed can, in no circumstances, be found justified.

4. Accordingly this petition is allowed and the impugned order is set aside. However, it would be open to the learned Magistrate to order for production of the vehicle, if production is at all necessary.