

(2001) 07 AHC CK 0020
In the Allahabad High Court
Case No : Criminal Revision No. 1792 of 2001

Ishtiyag Ahmad

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 16-07-2001

Acts Referred:

Prevention of Cruelty to Animals Act, 1960 — Section 11

Uttar Pradesh Prevention of Cow Slaughter Act, 1955 — Section 3, 5, 8

Citation : (2001) CriLJ 3906 : (2001) 4 RCR(Criminal) 823

Hon'ble Judges : J.C. Gupta, J

Bench : Single Bench

Advocate : A.K. Singh, for the Appellant; A.G.A., for the Respondent

Judgement

J.C. Gupta, J.—Heard Sri Anil Kumar Singh, counsel for the applicant in revision and the learned A.G.A. for the State.

2. This revision is directed against the order dated 4-7-2001 passed by the learned Addl. Chief Judicial Magistrate (Court No. 12), Azamgarh dismissing the application to release the vehicle (Truck No. U.P. 42-B-7671) in his favour.

3. The vehicle in question was seized by the police in case crime No. 224 of 2001, u/s 3/5/8 of U.P. Prevention of Cow Slaughter Act, 1955 and Section 11 of U.P. Prevention of Cruelty to Animals Act, 1960, P.S. Phoolpur, district Azamgarh. The seizure was reported to the Court below. The applicant claiming himself to be registered owner of the said vehicle moved an application for releasing the said vehicle in his interim custody. That application has been rejected by the Court below on the ground that the truck owner has not produced the driver in the Court and since the driver was still absconding, there was no justification in releasing the truck in question. The reason assigned by the Court below for rejecting the applicant's application for interim release of the vehicle in question is wholly unjustified. In the affidavit filed in support of the revision it is stated that the said vehicle is lying in open sky at the police station. learned Counsel further placed reliance on the Apex Court decision in Ashok Kumar v. State of

Bihar 2000 XXXXI ACC 418 : 2001 AIR SCW 2314.

4. In the circumstances, the impugned order is set aside and the learned Magistrate is directed to pass appropriate order on the application moved by the revisionist for interim custody of the vehicle in question and it may be released in favour of the applicant on the following conditions.

(1) that the applicant satisfies the Court below that he is registered owner of the said vehicle and the vehicle is otherwise fit for plying on road;

(2) that after such satisfaction if the applicant executes a personal bond in a sum of rupees one lakh with two solvent sureties to the satisfaction of the learned Magistrate

(3) that the applicant shall not transfer or alienate the vehicle in question by selling it or otherwise in favour of any third person nor possession of the same will be parted with its without prior permission of the Magistrate concerned and

(4) that the applicant shall produce the said vehicle before the Court or before such other authority as the Court may direct in the course of inquiry or trial or confiscation proceedings as the case may be whenever required to do so.

5. The revision is accordingly disposed of.