
(2002) 04 AHC CK 0114

In the Allahabad High Court

Case No : Criminal Miscellaneous Application No. 3806 of 2002

Jay Prakash Mishra

APPELLANT

Vs

State of U.P.through Collector,Mirzapur & Anr.

RESPONDENT

Date of Decision : 30-04-2002

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 457
Uttar Pradesh Excise Act, 1910 — Section 60

Citation : (2002) 04 AHC CK 0114

Hon'ble Judges : U.S.Tripathi, J

Final Decision : Allowed

Judgement

U.S. Tripathi, J.—Heard the learned Counsel for the applicant and the learned A.G.A. and perused the record.

2. The vehicle bearing registration No. U.P. 62D 7596 was seized in case crime No. 23 of 2001 under Section 60 of Excise Act by the Excise Inspector. Thereafter, the applicant moved an application for release of the above vehicle on the ground that he was its registered owner. The learned Magistrate rejected the above application on the ground that provisions of Section 457 Cr. P.C. are not applicable because no Challan has been sent to the Court and before sending any challan, the Court has no jurisdiction to pass the order of release of vehicle.

3. Aggrieved with the said order, the applicant preferred revision before the Sessions Judge. The learned Sessions Judge, vide its order dated 24/3/2002 rejected the revision mainly on the ground that proceeding for confiscation of the vehicle was pending before the Excise Officer (Collector) and therefore, the vehicle could not be released. However, he had not recorded any finding about the jurisdiction and applicability of Section 457 of Cr. P.C.

4. It is not disputed that provisions of Section 457 Cr. P.C. are applicable to the article, seizure of which is reported by the police to the Magistrate, as the case was cognizable by the Magistrate and by no other authority.

5. So far the pendency of confiscation proceeding is concerned, it does not create any bar in exercising jurisdiction under Section 457 Cr. P.C. in case any final order regarding confiscation is passed by the District Excise Officer that order will be applicable and the vehicle may be confiscated even after its release or giving in supurdagi of the registered owner.

6. Moreover, a direction can be issued by the registered owner to produce the vehicle as and when required by the authorities concerned. Therefore, there was no justification in refusing release of the vehicle in favour of the applicants.

7. The application is, accordingly, allowed. The impugned orders are quashed and it is directed that learned C.J.M. shall release the vehicle in the supurdagi of the applicant on furnishing a personal bond of Rs. 1 lac and two sureties each in the like amount to the satisfaction of Magistrate concerned and an undertaking that he will keep the vehicle in his safe custody, will not dispose it of and shall produce the same before the Excise Authorities, police or the Magistrate as and when required.

Application allowed.