
(2019) 12 RAJ CK 0099

In the Rajasthan High Court

Case No : Criminal Miscellaneous (Petition) No. 3885 Of 2019

Juhar Khan @ Jahar Khan @ Jahur Khan

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 20-12-2019

Acts Referred:

Rajasthan Forest Act, 1953 — Section 52C, 52(4)
Code Of Criminal Procedure, 1973 — Section 482

Citation : (2019) 12 RAJ CK 0099

Hon'ble Judges : Mahendar Kumar Goyal, J

Bench : Single Bench

Advocate : Sanjay Khan, S.S. Ola

Final Decision : Allowed

Judgement

1. The instant criminal miscellaneous petition has been filed seeking release of his vehicle seized by the Police under provisions of the Indian Penal Code, 1860 (for short "the Act of 1860") as well as provisions of the Rajasthan Forest Act, 1953 (for short "the Act of 1953").

3. It is contended by learned counsel for the petitioner that his application for releasing of the vehicle, has been rejected inasmuch as the proceedings under the provisions of the Act of 1953, were pending; whereas, there is no bar, on the jurisdiction of Court under the Act of 1953 for releasing the vehicle on "supurdginama" as provided under Section 52-C of the Act of 1953. It is contended that undisputably, no such intimation under Section 52(4) of the Act of 1953 has been received in this case. Learned counsel for the petitioner has relied upon judgments of Coordinate Bench of this Court in SB Criminal Miscellaneous Petition No.3944/2016 titled as Yunush Versus State of Rajasthan, dated 14.09.2016, in SB Criminal Miscellaneous Petition No.5947/2017 titled as Inklab Versus State of Rajasthan, dated 16.11.2017 and in SB Criminal Miscellaneous Petition No.1321/2017 titled as Sher Mohd. Versus State of Rajasthan, dated 26.04.2017.

4. Learned Public Prosecutor appearing for the respondentState did not dispute this legal position.

5. Heard learned counsel for the parties and perused the record. Since, bar under Section 52-C of the Act of 1953 is not attracted in this petition, in the light of the judgments passed by Coordinate Benches of this Court, I deem it just and proper to allow this criminal miscellaneous petition filed under Sections 482 of CrPC.

6. Consequently, this criminal miscellaneous petition is allowed. The order impugned herein, whereby, the prayer made by the petitioner for release of his vehicle in question, is quashed. It is directed that the vehicle in question shall be released by the learned trial Court on "supurdgi" to the petitioner on his furnishing "supurdginama" in the appropriate sum as the learned trial Court deems just and proper looking to the type of vehicle, its age and other relevant factors with two sureties of its satisfaction, with undertaking to produce the vehicle in question before the concerned Court as and when required with further undertaking that condition of the vehicles shall be kept intact and the petitioner shall not transfer or mortgage the vehicle in question and shall ensure that the vehicle shall not be damaged in any manner whatsoever. The petitioner is further directed to furnish the photographs of his vehicle in question showing number and colour etc. of the vehicle with the learned trial Court.

7. It is, however, made very clear that before so releasing the vehicle, the learned trial Court shall ensure that it has not received any intimation as stipulated under Section 52(4) in Section 52-C of the Act of 1953.

8. With the aforesaid directions, the criminal miscellaneous petition is allowed.