
(2013) 02 MP CK 0048

In the Madhya Pradesh High Court

Case No : Writ Petition No. 12510 of 2010

Keshav Prasad Gupta

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 06-02-2013

Acts Referred:

Citation : (2013) 3 EFLT 555 : (2013) 2 MPLJ 149

Hon'ble Judges : Rajendra Menon, J

Bench : Single Bench

Advocate : Sushil Kumar Tiwari, for the Appellant; Sanjeev Kumar Singh, Panel Lawyer for State, for the Respondent

Judgement

Rajendra Menon, J.—Shri Sushil Kumar Tiwari, learned counsel for the petitioner. Shri Sanjeev Kumar Singh, learned Panel Lawyer for the State. Challenging the order dated 7-5-2010 passed by the learned Additional Judge to the Court of Distt. Judge Shahdol and the order dated 3-5-2007 Annexure P-5 passed by the Appellate Authority in the matter of confiscation of vehicle of the petitioner, this writ petition has been filed.

2. Petitioner is the owner of Tempo Trax Cruiser (Cruiser Jeep) and it is alleged that the vehicle was used on 11-9-2003 in the night at about 3 A.M. in Circle Manjholi for committing certain forest offences and, therefore, the vehicle has been confiscated and after the revision having been dismissed, petitioner has filed this writ petition.

3. Shri Sushil Tiwari took me through the order Annexure P-1 passed by the competent authority and the findings recorded therein to show that as use of the vehicle for committing the offence is not established and involvement of the owner of the vehicle is not found to be proved, it is pointed out that the competent authority exonerated the petitioner and released the vehicle and the forest produce which was seized but on an appeal being filed, the Appellate Authority having interfered and decided the appeal in favour of the department

vide Annexure P-5, a revision was filed and the revision having been dismissed, petitioner is before this Court.

4. Even though, Shri Sushil Kumar Tiwari by taking me through the orders impugned particularly the orders passed by the Appellate Authority and the revisional authority tried to emphasize that they have recorded a perverse finding and the role of the owner in the matter is not established. The fact remains that during the pendency of the writ petition in the criminal prosecution of the driver and other persons are concerned, a finding has been recorded by the trial Court that the charges of committing the offence is not made out and all the accused persons have been acquitted of the charges. The judgment passed by the Criminal Court namely the C.J.M. Umariya in Cr. Case No. 4/04 on 21-4-2011 filed as Annexure P-8 along with I.A. No. 11927/12 goes to show that all the persons including the driver and other persons have been acquitted of the charges and once in the criminal case, the commission of offence is not made out, keeping in view the law laid down by a Bench of this Court in the case of Sarjoo Prasad Choudhary Vs. State of M.P. and others, wherein on similar consideration confiscation proceedings were quashed, I see no reason to reject the petition.

5. It is a case where the learned Criminal Court after due appreciation of the entire material available on record has recorded a finding that the vehicle and the persons accused have not committed the offence and once such a finding is recorded by the trial Court, it is binding on the parties to comply with the orders and, therefore, the entire confiscation proceedings have to be quashed.

6. It has been held by the Supreme Court in the case of State of M.P. and Others Vs. Madhukar Rao, that the confiscation proceedings should be stayed till conclusion of the criminal proceedings.

7. The order impugned dated 7-5-2010 and the order dated 3-5-2007 passed by the Appellate Authority quashed and the vehicle is directed to be released back to the original owner if not already done. With the aforesaid, petition stands allowed and disposed of.