

(2017) 01 RAJ CK 0013
In the Rajasthan High Court
Case No : 1383 of 2016

Rekha Ram S/o Shri Anchala Ram Jat	APPELLANT
Vs	
State of Rajasthan	RESPONDENT

Date of Decision : 06-01-2017

Acts Referred:

Code of Criminal Procedure, 1973, Section 457 - Procedure by police upon seizure of property
Narcotic Drugs and Psychotropic Substances Act, 1985, Section 60 - Liability

Citation : (2017) 01 RAJ CK 0013

Hon'ble Judges : Deepak Maheshwari

Bench : SINGLE BENCH

Advocate : Prashant Sharma, R.K.Bohra, Om Rajpurohit

Final Decision : Disposed

Judgement

1. Heard learned counsel for the petitioner as also learned Public Prosecutor.
2. This revision petition has been preferred against the order dated 15.09.2016 passed by learned Additional Sessions Judge, No.1, Barmer whereby application filed under section 457 Cr.PC for custody of the vehicle No.RJ-04-GB-0247 claimed by the petitioner has been rejected.
3. Learned counsel for the petitioner submits that no contraband article was being transported while the vehicle was seized. As per the provisions of section 60 of the NDPS Act only vehicles carrying contraband articles under the NDPS Act are liable

to be confiscated. Thus, the vehicle in dispute was not required to be confiscated. Learned counsel further submits that the petitioner purchased the vehicle from its registered owner Dinesh Kumar vide sale agreement on 25.03.2015. Learned counsel appearing for respondent No.2 Dinesh Kumar also admits this fact that the vehicle was sold by Dinesh Kumar prior to the date of seizure to the petitioner.

4. Learned Public Prosecutor has vehemently opposed the prayer saying that when the vehicle was seized, it was found carrying Rs.2,11,110/- which was intended to be used to purchase poppy-husk. He has further submitted that the petitioner is not a registered owner of the vehicle.

5. I have given thoughtful consideration to the arguments advanced by rival parties. In the order impugned dated 15.09.2016, it has been mentioned that no contraband article has been recovered from the vehicle when it was seized.

6. In view of above, the petitioner appears entitled to have custody of the vehicle since, it is an admitted fact that the vehicle has been purchased by the petitioner on 25.03.2015 by way of a sale agreement but condition is required to be imposed on the petitioner to get registration certificate of the said vehicle transferred in his name within a period of one month positively after obtaining custody whereof.

7. In view of whatever stated above, the revision petition is allowed while setting aside the order impugned dated 15.09.2015. It is further directed that the vehicle be released in favour of the petitioner on furnishing of Supurdginama in the sum of rupees five lacs with a surety of like amount with the stipulation that he will get registration certificate transferred in his name within a period of one month from obtaining possession of the vehicle and will

produce and continue to do so the said vehicle before the trial court whenever required during trial, will not handover/ dispose off the same and will keep it intact till the disposal of the trial and the appeal, if preferred.

8. The revision petition is disposed of accordingly.