

(2024) 10 JH CK 0057

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 3177 Of 2023

Safik Ansari @ Safique Ansari

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 16-10-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 482

Jharkhand Mineral (Prevention of Illegal Mining, Transportation & Storage) Rules, 2017
— Rule 11(v)

Citation : (2024) 10 JH CK 0057

Hon'ble Judges : Anil Kumar Choudhary, J

Bench : Single Bench

Advocate : Sanjeev Kr. Sahay, Sanjay Kr. Srivastava

Final Decision : Dismissed

Judgement

Anil Kumar Choudhary, J

1. Heard the parties.

2. This criminal miscellaneous petition has been filed invoking the jurisdiction of this Court under Section 482 Cr.P.C. with a prayer to quash and set aside the order dated 24.03.2022 passed in Criminal Revision No. 17 of 2021 whereby and where under, the learned Sessions Judge, Lohardaga has dismissed the criminal revision preferred against the order dated 26.07.2021 passed by learned A.C.J.M., Lohardaga in Misc. Cr. Application No. 387 of 2021 whereby and where under, the learned A.C.J.M., Lohardaga rejected the prayer of the petitioner for release of tractor bearing registration no. JH 08 H-5417 and trailer bearing registration no. JH 08 D-1861 which has been seized in connection with Bhandra P.S. Case No. 08 of 2021 corresponding to G.R. No. 271 of 2021.

3. The brief fact of the case is that consequent upon institution of the said case, a confiscation proceeding in respect of the said vehicle is going on vide Confiscation Case No. 1/2021-22 before the Deputy Commissioner, Lohardaga

which as per the supplementary affidavit dated 27.08.2024 filed by the petitioner is still pending before the Deputy Commissioner, Lohardaga.

4. Since the confiscation proceeding is pending, the learned Sessions Judge, Lohardaga has rejected the prayer for release of the vehicle, by setting aside the order passed by the learned ACJM.

5. Relying upon the judgment of a coordinate Bench of this Court in the case of Biva Jha vs. State of Jharkhand in Cr.M.P. No. 3095 of 2013 dated 19.12.2013 it is submitted by the learned counsel for the petitioners that therein it has been mentioned that in the M.M.D.R. Act there is no provision which prevents the Court from making the order for release of the vehicle seized in contravention of the M.M.D.R. Act. Hence, it is submitted that the prayer as prayed for in this criminal miscellaneous petition be allowed.

6. Learned Additional Public Prosecutor on the other hand opposes the prayer and submits that the said order of the coordinate Bench was passed before the Jharkhand Mineral (Prevention of Illegal Mining, Transportation & Storage) Rules, 2017 came into force and Rule 11 (v) of the same empowers the Deputy Commissioner for confiscation of inter alia any vehicle seized. Therefore, the ratio of the said judgment is not applicable in view of the Jharkhand Mineral (Prevention of Illegal Mining, Transportation & Storage) Rules, 2017 coming into force. Hence, it is submitted that this criminal miscellaneous petition being without any merit be dismissed.

7. Having heard the submissions made at the Bar and after going through the materials in the record, it is pertinent to mention here that the undisputed fact remains that the confiscation proceeding in respect of the vehicle in question is going on before the Deputy Commissioner, Lohardaga. The legality of the said confiscation proceeding before the Deputy Commissioner is not under challenge in this criminal miscellaneous petition.

8. Under such circumstances, this Court do not find any illegality in the order dated 24.03.2022 passed by the learned Sessions Judge, Lohardaga in Criminal Revision No. 17 of 2021 as also the order dated 26.07.2021 passed by learned A.C.J.M., Lohardaga in Misc. Cr. Application No. 387 of 2021 in connection with Bhandra P.S. Case No. 08 of 2021 corresponding to G.R. No. 271 of 2021.

9. Accordingly, this criminal miscellaneous petition being without any merit is dismissed.