

(2014) 07 BOM CK 0319

In the Bombay High Court

Case No : Criminal Writ Petition No. 178 of 2001

Sayed Mustaq Ali

APPELLANT

Vs

Assistant Conservator of Forests and Others

RESPONDENT

Date of Decision : 31-07-2014

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2015) ALLMR(Cri) 732 : (2015) 3 BomCR(Cri) 414

Hon'ble Judges : V.M. Deshpande, J

Bench : Single Bench

Advocate : C.R. Deshpande, Advocates for the Appellant; A.S. Shinde, A.P.P, Advocates for the Respondent

Judgement

V.M. Deshpande, J.—The order passed by the Assistant Conservator of Forests, West Dhule, dated 15.12.1999, by which a vehicle Tempo bearing registration No. GJ-5/T-713 was confiscated under the provisions of Indian Forest Act, together with the judgment and order, passed by the learned Additional Sessions Judge, Nandurbar in Criminal Appeal No. 3 of 2001, whereby the learned Appellate Court dismissed the appeal and confirmed the order of confiscation of tempo passed by the Assistant Conservator of Forests, West Dhule, are questioned in the present Writ Petition. This matter was admitted by this court on 4.6.2002. Today the matter was taken up for its final hearing.

I have heard Shri C.R. Deshpande, learned counsel for the petitioner and Shri A.S. Shinde, learned Additional Public Prosecutor for the respondents in extenso.

2. According to the petitioner, he is owner of tempo bearing registration No. GJ-5/T-713. According to him, he purchased the said tempo by obtaining finance from the Bank of India, Nandurbar Branch.

3. On 30.9.1998 a show cause notice was issued to the petitioner and others by the Assistant Conservator of Forests, West Dhule under Section 61(B) of the Indian Forest [Maharashtra Amendment Act, 1984 (Act No. VII of 1985)] (for

short hereinafter referred to as, "the said Act"). By the said notice explanation was called from the present petitioner amongst others.

The said notice was replied by the petitioner on 7.10.1998.

4. On 25.6.1998 at about 3.00 a.m. when patrolling was going on at Navapur-Pimpalner road, that time the tempo in question was intercepted at Pratappur phata. When the search was taken from the said tempo, that time the teak wood was found in the said tempo. The person who was driving the tempo and the others were unable to give any explanation about the said teak wood. Therefore, forest offence bearing No. Pri.Off.No. 10/98-98 was filed against Syed Abid Syed Shabir, Pravin Khupchand Thakur and Dilya Nendadya Gavit-Since the petitioner was the registered owner of the said vehicle, a notice as contemplated under Section 61B of the said Act was issued to him.

5. The learned Assistant Conservator of Forests, West Dhule, after following the principles of natural justice and after minutely verifying all the record, reached to his subjective satisfaction that the vehicle was used in transporting the teak wood belonging to the Government illegally, and therefore, he passed the order of confiscation of the said vehicle.

6. Feeling aggrieved thereby, an appeal was filed by the present petitioner under Section 61 of the said Act. The said appeal was registered as Criminal Appeal No. 3 of 2000. The learned Appellate court dismissed the appeal.

7. With the assistance of the learned counsel Shri C.R. Deshpande and learned Additional Public Prosecutor, I have gone through the impugned judgment and order. It is clear that there is compliance of Section 61B of the said Act. The show cause notice was duly replied by the petitioner. The appellate court has reached to the conclusion that the Assistant Conservator of Forests, West Dhule has bestowed the thoughtful consideration to the defence raised by the present petitioner. The learned appellate court also has considered the defence raised by the present petitioner afresh and after considering the defence, it was found by the learned appellate court that the defence of the present petitioner is totally false. The learned appellate court has also reached to the conclusion on appreciation of the fact that no interference is warranted in the subjective satisfaction reached by the forest authority while confiscating the vehicle in question.

8. To me, the orders passed by both the appellate court as well as the forest authority are perfectly legal. No perversity is shown by the learned counsel for the petitioner either on facts or on law. Hence, I refrain myself from exercising my limited jurisdiction and discretion under Article 227 of the Constitution of India in favour of the petitioner. Hence, the petition is dismissed. Rule is discharged. No costs.