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**(2008) 12 JH CK 0111**  
**In the Jharkhand High Court**  
**Case No : L.P. A. No. 584 of 2006**

State of Jharkhand and Another

APPELLANT

Vs

Kanchan Agrawala

RESPONDENT

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**Date of Decision :** 03-12-2008

**Acts Referred:**

**Citation :** (2008) 12 JH CK 0111

**Hon'ble Judges :** Gyan Sudha Mishra, C.J; Dilip kumar sinha, J

**Bench :** Division Bench

**Advocate :** R. Krishna, S.C. I, for the Appellant; Md. Z. Alam and K.K. Ambhastha, for the Respondent

**Final Decision :** Dismissed

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## Judgement

1. This appeal has been preferred by the State of Jharkhand through the Department of Forest & Environment against the order dated 15th May, 2006, by which the learned Single Judge was pleased to remand the matter to the confiscating authority for determining the question as to whether the vehicle, which was seized on the allegation of carrying forest goods, which was illegal, could be held liable for confiscation without recording a finding that the owner of the vehicle had knowledge about the commission of the offence and she was directly involved in committing such offence. The learned Single Judge was of the view that there had been no finding in the impugned order with regard to the fact as to whether the owner of the vehicle, which was confiscated and was in the custody of the police, was involved in the commission of the offence for carrying 250 gunny-bags of soft coal in the vehicle with the knowledge that it was an offence to carry such goods. The learned Single Judge therefore, was pleased to release the truck in favour of the owner, as the same had been lying in the custody of the police for the last 5 years. The writ petition, therefore, was treated as disposed of.

2. This appeal has been filed by the State of Jharkhand raising a grievance that the truck ought not to have been released by the learned Single Judge, since the

truck was involved in the commission of the offence and therefore, onus lay on the owner of the vehicle to establish that she had no knowledge about the carriage of the goods which could be held illegal in any manner.

3. We find no substance in this argument at this stage, since the learned Single Judge has clearly recorded that there is absence of finding with regard to the knowledge attributed to the owner of the vehicle to the effect that it was involved in the commission of the offence alleged. For this very reason, the matter had been remanded to the competent authority to record a finding in this regard. If the finding itself has not been recorded by the competent authority, we fail to understand as to how it could be contended that the owner had the knowledge with regard to the carriage of the goods on the vehicle to the effect that it was illegal. Therefore, we brush aside this contention. We also find no substance in the argument assailing the order, by which the truck had been ordered to be released, as the same had been lying in the custody of the police for the last 5 years. Although the competent authority had failed to record a finding that the owner of the vehicle had the knowledge about the commission of the offence. In any case the appellant, State of Jharkhand, will also be granted opportunity to establish that their action of confiscation was justified as also the owner of the vehicle will have to establish that she had no knowledge about the carriage of goods on the vehicle. We, thus, find no substance in this appeal.

4. Since the matter has merely been remanded to the competent authority, we deem it appropriate that the respondent-owner should furnish an undertaking before the confiscating authority being the Divisional Forest Officer, Ramgarh, to the effect that in case, the matter is decided against her, she will surrender the vehicle to the confiscating authority for dealing with the same in the manner prescribed by law. The undertaking be furnished before the authority within a period of two weeks of the receipt of the copy of this order.

5. The appeal is dismissed, subject to the aforesaid directions.