
(2013) 08 MP CK 0287
In the Madhya Pradesh High Court
Case No : M. Cr. C. No. 7880 of 2013

Sukhpati Prasad Dwivedi

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 05-08-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 457, 482
Forest Act, 1927 — Section 2, 41, 52
Penal Code, 1860 (IPC) — Section 397
Wild Life (Protection) Act, 1972 — Section 27, 29, 39, 51, 9

Citation : (2013) 08 MP CK 0287

Hon'ble Judges : Rakesh Saxena, J

Bench : Single Bench

Advocate : N.K. Agrawal, for the Appellant; Ashok Chourasiya, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Rakesh Saxena, J.—Heard. Applicant has filed this petition u/s 482 Cr.P.C. against the order dated 6.5.2013 passed by Special and Additional Sessions Judge, Sidhi in Criminal Revision No. 44/2013 affirming the order dated 17.4.2013 passed by Chief Judicial Magistrate, Sidhi rejecting the application filed by applicant u/s 457 Cr.P.C. for grant of interim custody of Hiwa truck bearing Chassis No. MAT448117C3P34317 and Engine No. B5.9180322IM63305066 seized by Police Churhat in connection with offence registered at Crime No. 127/2013 u/s 397 of the Indian Penal Code, Section 9, 27, 29, 39, 51 of the Wild Life Protection Act, 1972 and Section 2, 41 and 52 of the Indian Forest Act, 1927.

2. Learned counsel for the applicant submits that the learned courts below illegally rejected the prayer of grant of interim custody of the aforesaid vehicle merely on the ground that proceedings about the confiscation of the aforesaid vehicle were pending before the Competent Authority and the intimation in that regard was received by the Magistrate.

3. On perusal of the order passed by the courts below it is apparent that in view of the Madhya Pradesh Amendment by incorporation of Section 52C in the Indian Forest Act, 1927, the jurisdiction of the Court has been barred for entertaining the application for grant of interim custody of the vehicle/property. Section 52C of the Indian Forest Act, 1927 is reproduced as under:-

52C. Bar to jurisdiction of Courts, etc. under certain circumstances.-(1) On receipt of intimation under sub-section (4) of Section 52 about initiation of proceedings for confiscation of property by the Magistrate having jurisdiction to try the offence on account of which the seizure of property which is subject-matter of confiscation, has been made, no Court, Tribunal or Authority (other than the Authorized Officer, Appellate Authority and Court of Sessions referred to in sections 52, 52A and 52B) shall have jurisdiction to make orders with regard to possession, delivery, disposal or distribution of the property in regard to which proceedings for confiscation are initiated u/s 52, notwithstanding anything to the contrary contained in this Act, or any other law for the time being in force.

4. A bare perusal of the aforesaid provisions indicates that the learned Magistrate has no jurisdiction to entertain the application u/s 457 Cr.P.C. since it has received intimation about the initiation of proceedings for confiscation of the property by Competent Authority. I find no jurisdictional error in the aforesaid order. Accordingly, this petition is dismissed.