

IN THE HIGH COURT OF MADHYA PRADESH: BENCH AT INDORE.**SINGLE BENCH : HON'BLE SHRI JUSTICE ALOK VERMA****M.Cr.C.NO.5507/2016**

Moin S/o Mohammad Khan

Vs.

State of Madhya Pradesh

Shri Durgesh Sharma, learned counsel for the applicant.

Ms. Mini Ravindran, learned counsel for respondent/State.

ORDER**(Passed on this 11th day of August, 2016)**

This application under Section 482 Cr.P.C. is directed against the order passed by the learned Additional Sessions Judge, Dhar in Criminal Revision no.82/16 dated 06.05.2016, whereby the learned Additional Sessions Judge, confirmed the order passed by the learned Judicial Magistrate First Class, Manawar dated 02.02.2016 in which learned Magistrate dismissed an application filed by the present applicant under Sections 451, 457 of Cr.P.C.

2. The brief facts are that the present applicant is registered owner of vehicle bearing registration number MP-09-HF-7346. This vehicle was seized by police station Manawar in Crime No.595/2014 under Section 11(C) of the Prevention of Cruelty to Animals Act, Sections 4,5,6 and 9 of the M.P. Govansh Vadh Pratishedh Adhinyam and Section 429 of IPC. It is alleged that cow progeny was being transported in this vehicle under cruel conditions for slaughter. When the vehicle was checked, one

animal was found dead and it was also found that number plate of the vehicle was changed. The original number was MP-09-HF-7346, while the vehicle was being plied with some another number plate.

3. Learned Judicial Magistrate dismissed the application filed under Sections 451, 457 of Cr.P.C. for obtaining the interim custody of the vehicle on the ground that the proceedings for confiscation of the vehicle was in progress and therefore, it was not deemed proper by the Magistrate to release the vehicle on interim custody.

4. The matter travelled before the Sessions Court, where the revision application was filed. Learned Additional Sessions Judge relied on the judgment of Co-ordinate Bench of this Court in the case of **Sheikh Kalim Vs. State of M.P. 2015(II) MPWN 157** and **Mohd. Islam and Ors. Vs. State of M.P. and Ors ILR (MP) 2013 2265** and held that even when the proceedings for confiscation of the vehicle which was allegedly used in the crime under various provisions of Govansh Vadh Pratishedh Adhinyam, the vehicle can be released on interim custody till the conclusion of trial before the Magistrate. However, it was opined by the learned Additional Sessions Judge that cow progeny was being transported in cruel conditions and in all 40 animals, out of which one was found dead and on this premises, he confirmed the order passed by the learned Magistrate and dismissed the revision petition.

5. Legal side of this matter was considered in detail by this Court in the case of **Sarvan S/o Prahalad Suraha and another Vs. State of M.P. in M.Cr.C.No.593/2015 dated 24.08.2015.**

In this case in para 14 of the order, this Court expressed the following observations:-

“14. Therefore, in the considered opinion of this Court, the manner in which the property is to be confiscated, is not provided by the Act and the rules and, therefore, applying the principles laid down in the case of **Madhukar Rao** (Supra), the District Magistrate has no power to confiscate the vehicle till it is held by the competent Court of Magistrate that offence was infact committed and the vehicle was used in commission of the offence. In this view of the matter, the questions framed in para 4 may be answered thus:-

(i) The proceedings for confiscation before the District Magistrate can continue, however, no final order can be passed.

(ii) Final order in the proceedings can be passed only after conclusion of trial before the Judicial Magistrate in which it was held that offence under the Act was committed and the vehicle was used for transporting cow progeny for slaughter.”

6. In this matter however, the revisional Court refused to release the vehicle on the ground that the crime was committed in a cruel manner. At this stage, no inference can be drawn. The only aspect to be seen is whether the vehicle was required during recording of evidence in the case and therefore, even while proceedings for confiscation is under progress, the vehicle may be released on interim custody. There appears to be no benefit in

keeping the vehicle under custody.

7. Accordingly, this application under Section 482 Cr.P.C. is allowed. The orders passed by the learned Additional Sessions Judge, Dhar in Criminal Revision No.82/2016 dated 06.05.2016 and Judicial Magistrate First Class, Manawar dated 02.02.2016 are set aside. The seized vehicle bearing registration number MP-09-HF-7346 is given on interim custody to the present applicant upon his furnishing Supurdginama to the tune of **Rs.5,00,000/-** to the satisfaction of the concerned Magistrate on the following conditions:- (i) that he will not alienate or transfer the vehicle during pendency of the trial or till the confiscation proceedings are completed (ii) that he will not commit crime under the provisions of M.P.Govansh Vadh Pratishedh Adhiniyam, 2004, till the matter is decided (iii) that he shall also not change its appearance, colour etc. (iv) that he shall produce the vehicle whenever and wherever he is directed to do so by the criminal Court or the District Magistrate, as the case may be.

8. Breach of the conditions would entail cancellation of Supurdginama automatically.

9. With the aforesaid observations and directions, this M.Cr.C.stands disposed of.

C.C.as per rules.

(ALOK VERMA)
JUDGE

RJ/