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**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

**BEFORE
HON'BLE SHRI JUSTICE PREM NARAYAN SINGH**

ON THE 22nd OF FEBRUARY, 2024

CRIMINAL REVISION No. 5303 of 2023

BETWEEN:-

**THE STATE OF MADHYA PRADESH
STATION HOUSE OFFICER THROUGH
POLICE STATION MAINGAON
DIST. KHARGONE (MADHYA PRADESH)**

.....PETITIONER

(SHRI SACHIN JAISWAL - PANEL LAWYER)

AND

**JAFAR S/O HANIF,
AGED ABOUT 29 YEARS,
GRAM MOHANPURA, TEH. BHANPURA,
DIST. KHARGONE (MADHYA PRADESH)**

.....RESPONDENTS

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*This revision coming on for admission this day, the court passed the
following:*

ORDER

This criminal revision under Section 397 of the Code of Criminal Procedure, 1973 has been preferred by State of M.P. being aggrieved by the order dated 25.05.2023 passed by the learned First Additional Sessions Judge, Khargone, District Mandleshwar in Criminal Revision No. 02/2023, whereby the seeking interim custody of Bolero pick up bearing registration No. MP-10-G-3380 has been handed over to the respondent on supurdginama.

2. Counsel for the State submitted that the learned trial Court has committed grave error of law by handing over the vehicle to the respondent on

supurdginama, without considering the fact that confiscation proceedings were already commenced under the M.P. Excise Act 1915 (hereinafter referred as..." the Act "). It is further submitted that a letter dated 14.11.2022 already been written from the Office of Superintendent of Police Khargone, to Collector Khargone regarding initiation of confiscation proceedings. Hence counsel prays for setting aside the impugned order.

3. I have heard the contention of counsel for the State and perused the record.

4. From the face of record, it is clearly apparent that the aforesaid letter dated 14.11.2022 written from the Office of Superintendent of Police Khargone, to Collector Khargone regarding initiation of confiscation proceedings, is a general information but no specific intimation has been given to the Court.

5. In the case of ***Suresh Dave vs. State of M.P.*** reported as ***2003(1) MPHT 439*** Hon'ble Apex Court has held that

5. Having heard the learned Counsel for the parties and after perusing the entire record, this Court is of the opinion that as per the facts mentioned in para 4 of the impugned order passed in revision by the Revisional Court, it is crystal clear that the Excise Department or the Collector has not sent any intimation to the Criminal Court about initiation of confiscation proceedings regarding the seized Tata Sumo. Under Section 47-D of the Act, the Criminal Court has no jurisdiction only when the Collector sent the intimation about initiation of confiscation proceedings of the vehicle, but in the present case, no such intimation was ever sent and received by the Criminal Court. The learned Revisional Court has taken cognizance of some document or letter lying in the case diary showing the fact about initiation of confiscation proceedings before the Deptt. But that alone is not sufficient. The requirement of Section 47-D of the Act is that the Criminal Court has to be intimated by the Collector about initiation of confiscation proceedings of the vehicle or the other seized property involved in that particular case. But, no such intimation has yet been sent by the Collector to the Criminal Court. Hence, the Criminal Court has jurisdiction to entertain the application and pass appropriate order.

6. The legal position is that if the Criminal Court has been given intimation as per provision under Section 47-D of the Act about initiation of confiscation proceedings by the Collector regarding confiscation then the Criminal Court

is ceased of the matter and has no jurisdiction to pass any order for interim custody, or confiscation of vehicle. But at the same time, the Collector has jurisdiction to pass order for interim custody of the vehicle or property looking to the facts and circumstances of the case and in the interest of safeguard of property as well as to protect the person suffering from financial loss. In the facts and circumstances of the present case, since there is no compliance of Sections 47-A (3) (a) and 47-D of the Act up-till now and no notice has been issued by the Collector/Authority to the applicant for initiation of confiscation proceedings, it would be just and proper to release the vehicle on interim custody in favour of the applicant who is the Registered owner of the aforesaid vehicle (Tata Sumo).

7. In the result, this petition is allowed. The seized Tata Sumo bearing Registration No. MP-09-S-5511 is directed to be released on interim custody of the applicant upon his furnishing a bond of Rs. 4,00,000/- with one surety of equal sum to the satisfaction of the Criminal Court subject to the condition that the applicant shall not alienate this vehicle. He shall also not change its condition, colour etc., and shall produce the vehicle whenever and wherever he is directed to do so by the Criminal Court. Breach of any of the conditions would entail cancellation of this order automatically.

6. It is also pertinent to mention here that the aforesaid law laid down by this Court has recently been endorsed by co-ordinate Bench of this Court in the case of *Karansingh S/o. Pithu Wakhla vs. State of M.P. vide order dated 09.05.2023 passed in M.Cr.C. No.14200/2023* has held as under:

"6. To appreciate the rival submissions, it is apposite to refer to the relevant provisions of Section 47(D) of the Act which is reproduced as under:-

47-D. Bar of jurisdiction of the Court under certain circumstances.- Notwithstanding anything to the contrary contained in the Act, or any other law for the time being in force, the Court having jurisdiction to try offences covered by the clauses (a) or (b) of sub Section (1) of the Section 34 on account of which such seizure has been made, shall not make any order about the disposal, custody etc. of the intoxicants, articles, implements, utensils, materials, conveyance etc. seized after it has received from the Collector an intimation under Clause (a) of sub-Section (3) of Section 47-A about the initiation of the proceedings for confiscation of seized property..

7. On bare reading of the aforesaid provision, it is apparent that if the Criminal Court has been given intimation as per

provision under section 47(A)(3)(a) of the Act about initiation of confiscation proceedings by the Collector regarding confiscation then the criminal court is ceased of the matter and has no jurisdiction to pass any order for interim custody of vehicle as held by this Court in the order dated 03/01/2003 passed in the case of **Suresh R. Dave Vs. State of Madhya Pradesh (M.Cr.C.No.4390/2002)** reported in **2003(1) MPHT 439** and order dated **20/07/2009** passed in the case of **Pratik Parik Vs. State of Madhya Pradesh (M.Cr.C.No.4244/2009)** reported in **2010 (1) MPLJ (Cri) 205.**"

7. Having gone through the provisions of law, it is expedient to observe that if the particular provisions of particular Act requires that peculiar act to be done in a peculiar manner, it has to be done in the same manner and not otherwise. Conjoint reading of Sections 47-A and 47-D of the Act specifically suggests that if intimation of initiation of confiscation proceedings of seized property is received under Clause-A of Sub-Section 3 of Section 47-A of the Act, the jurisdiction of the Court is barred.

8. In the case at hand, the said intimation was not received in a prescribed form, from the Collector. On the contrary, a letter was received from the Superintendent of Police, Khargone, which was sent to District Maistrate, Khargone. As per facts depicted by the learned Trial Court and learned Revisional Court, the intimation was not in consonance of Section 47-A of the Act.

9. It is also clear that the respondent is the registered owner of the offending vehicle in support of which documents regarding ownership have already been produced before the trial Court. Therefore, the learned trial Court in view of the settled law passed in the case of **Suresh Dave vs. State of M.P.** reported as **2003(1) MPHT 439** has handed over the vehicle on supurdiginama.

10. In view of the aforesaid observations, this Court is of the view that the impugned order of the learned Revisional Court is just and proper and having no infirmity and impropriety, hence, no interference is called for with the findings of the learned Revisional Court.

Accordingly the revision petition stands rejected.

(PREM NARAYAN SINGH)
JUDGE

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