

HIGH COURT OF MADHYA PRADESH
PRINCIPAL SEAT AT JABALPUR

Misc. Criminal Case No.2658 of 2007

Jagtar Singh

Applicant

Versus

Authorized Officer & Deputy Forest Circle Officer

Respondent

For applicant : Ku. Manju Verma, Advocate

For respondent : Shri Akshay Namdeo, Panel Lawyer

PRESENT :

HON'BLE SHRI JUSTICE **G.S. Solanki**

O R D E R
(Passed on 31-01-2012)

As per G.S. Solanki, J.:

Invoking the extraordinary jurisdiction of this Court under section 482 of Cr.P.C., the applicant filed this petition for quashing the order dated 07.11.2006 passed by Sessions Judge, Khandwa in Criminal Revision No. 183/06, whereby the order dated 29.07.2006 passed by appellate authority/ Conservator of Forest, Khandwa in Appeal No.3/06 was affirmed.

The facts, in a nutshell, giving rise to this

petition are that on 26.04.2005, Deputy Circle Officer and his staff found a truck No. MP-09-D-4872, loaded with wood of Baheda and Marat trees. The truck was driven by Saudan Singh. It is further found that aforesaid wood was being transported without any T.P. and without any mark of hammer of forest department. Therefore, offence under Forest Act was registered as Crime No.220/02. Information of aforesaid seizure was sent to JMFC, Khandwa. Applicant/owner of the vehicle was duly informed. He contested the case before trial Court and appellate Court with the plea that vehicle was sent for transporting the cement up to Badwah.

It is further pleaded that driver Saudan Singh loaded the aforesaid wood from village Maslai without his consent. Therefore, there was no assent or consent of applicant in the act committed by driver.

After recording the evidence of both the parties, the authorized officer reached to the conclusion that applicant failed to prove that he was unaware of the commission of offence in relation to forest produce by his vehicle. On the contrary, it was found that applicant /owner of the truck was also consenting party in transporting the aforesaid wood by his

conduct of silence.

Being aggrieved of the aforesaid order, an appeal was filed before appellate authority/ Conservator of Forest, Circle, Khandwa, and same was dismissed vide order dated 29.07.2006.

Being aggrieved, revision petition was filed but the same was dismissed vide order dated 07.11.2006, hence, this petition.

Learned counsel for the applicant submitted that authorized officer / appellate Court, as well as revisional Court committed illegality in not appreciating the evidence on record in its proper perspective. It is further submitted that applicant was not aware of the offence and driver Saudan Singh transported aforesaid wood without his knowledge. She further submitted that Saudan Singh also entered into a contract that if Saudan Singh transported any wood of without T.P., petitioner/owner is not responsible. Then, agreement was produced before the Courts-below, but same was not appreciated properly, therefore, he prays for setting aside the impugned order.

I have perused the impugned order, evidence recorded by the authorized officer and other material on record, including alleged agreement between

driver Saudan Singh and petitioner/owner of the truck.

It is admitted on record that at the time of checking of vehicle by authorized authority, there was no T.P. with driver Saudan Singh. However, he stated that some one went for procuring T.P. On perusal of seizure Panchnama (Ex. P-1 and P-2) along with statement of Saudan Singh, it is proved on record that the seized wood was not having hammer of forest department. There was no T.P. and vehicle was seized when the driver took aforesaid vehicle from the place of incident to other place. It also reveals from the record that applicant Jagtar Singh sent his vehicle to Sanavad where cement was unloaded and thereafter, driver Saudan Singh remained for one day and was waiting for another loading from Sanavad to Indore. Thereafter, driver Saudan Singh met one Kailash Singh and loaded the alleged wood in his truck. Same is being transported to Indore. It is a matter of common experience that it is unbelievable that the driver could not have been contacted the applicant (owner of the vehicle) since he waited for one day at Sanavad, certainly he could have been in contact with owner of the truck. The revisional Court has rightly

observed that driver could have been in contact with this applicant and driver Saudan Singh loaded alleged wood with the consent of this applicant. So far as agreement written between the driver and this applicant is concerned, normally, such type of agreement is not written by the driver. It appears that it is afterthought document. It is not alleged on behalf of this applicant that driver Saudan Singh was in a habit of transporting the other woods without his knowledge. From the evidence and other material on record, Courts below have rightly observed that without consent or without knowledge of truck owner, driver could not take truck from Sanavad to interior village Maslar and further he took the risk of transporting the wood. In these circumstances, the applicant cannot be absolved from the liability on the basis of aforesaid agreement.

In almost forest offences alleged to be committed by servant, the intention of the legislature appears to be that masters should not in every case be able to evade punishment in some form, although their criminal liability for forest offence is excluded. At the same time, if their consent or knowledge of involvement of their servant appears

from circumstances directly or by way of keeping himself silent, then tools or vehicles normally belongs to owners should have been confiscated. Proceeding of confiscation is not criminal liability fastened on the owner of the vehicle. It is an additional proceeding conducted on the basis of involvement of owner of the vehicle by direct or by means of his silence in the given facts and circumstances of the case.

Keeping in view the aforesaid principle of law, the Courts-below have rightly dismissed the criminal revision of applicant. It is not the case in which the order passed by the Courts-below suffers from the abuse of process of Court of law. No case is made out for interference by this Court exercising extraordinary jurisdiction under section 482 CrPC. The petition is, therefore, dismissed.

(G.S. Solanki)
J U D G E
31/01/2012

