

31/5/16

Shri N.K.Gupta, Sr. Advocate with Shri Sanjay Sharma, Advocate.

Smt. Sangeeta Pachori, Govt. Advocate for the respondents/State.

The present petition under Article 226 of the Constitution of India assails the order dated 29/4/2016 in Criminal Case No. 5611/16 passed by the Chief Judicial Magistrate, Bhind (M.P.) by which an application under Section 451/457 of Cr.P.C. seeking custody of the offending vehicle bearing registration No.UP75M-4580 has been rejected.

Undisputedly, the impugned order has been passed under the provisions of Code of Criminal Procedure wherein the petitioner has further remedy of filing a revision under Section 397 of Cr.P.C., which admittedly has not been availed.

It is trite principle of law that in matters where statutory remedy is available, extraordinary writ jurisdiction ought not to be exercised unless case of want of jurisdiction or breach of principles of natural justice or ground of impugned action being ultra vires of some of provisions of law is made out.

In the present case, none of these grounds exist to justify invoking of extraordinary jurisdiction under Article 226 of the Constitution of India.

In view of above, this court declines to interfere in this writ petition and relegates the petitioner to avail said alternative remedy of revision before the appropriate forum.

Accordingly, the petition is dismissed with liberty as indicated above.

(Sheel Nagu)
Vacation Judge

(Vivek Agarwal)
Vacation Judge

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