

THE HIGH COURT OF MADHYA PRADESH

Cr.R. No.621/2018

(Bahadur Kha vs. The State of M.P.)

Indore, Dated:27/04/2018

Shri Shahid Sheikh, learned counsel for the applicant.

Shri Swapnil Sharma, learned Public Prosecutor for the respondent/State.

ORDER

This revision petition under Section 397 read with Section 401 of Cr.P.C. has been filed by the applicant being aggrieved by the judgment dated 02/02/2018 passed by Additional Sessions Judge, Dewas in Cri. Appeal No.53/2017, confirming the judgment dated 16/02/2017 passed by Judicial Magistrate First Class, District Dewas, in Criminal Case No.1240/2013, whereby the applicant has been convicted under Section 6/9 of M.P. Govansh Vadh Pratishedh Adhiniyam, 2004, sentenced to undergo 1 year R.I and to pay fine of Rs.5000/- the applicant has also been convicted and punished with fine of Rs.2000/- under Section 66/192 of Motor Vehicle Act, 1988, with default stipulations.

02. Brief facts relevant to the case are that on 07/03/2012, on the basis of secret information, the Asst. Sub-Inspector, police-station BNP Dewas intercepted Tata Magic vehicle bearing Registration No.MP 41 LA 0330 near Rajoda Phata, Indore Dewas Road. On inspection, 3 Oxen/Cow progeny was found inside the vehicle, which were being transported for slaughter purpose to Maharashtra, without any permit. The vehicle, which was running without having valid permit, was seized. The applicant, who was driving the vehicle was arrested. A complaint was filed against the applicant by Asst. Sub-

Inspector and on the basis of aforesaid complaint, case bearing F.I.R No.70/2013 was registered against the applicant for offences punishable under Sections 4,6,9 of M.P. Govansh Vadh Pratishedh Adhiniyam, 2004 read with Section 66/192 of Motor Vehicle Act, 1988. After completion of investigation charge-sheet was filed and trial Court, while passing the judgment, convicted the applicant for offence punishable under Sections 6/9 of M.P. Govansh Vadh Pratishedh Adhiniyam, 2004 read with Section 66/192 of Motor Vehicle Act, 1988. An appeal was filed against the impugned judgment, which was dismissed vide order dated 02/02/2018. This order is under challenge in the present revision petition.

03. Learned counsel for the applicant submitted that the applicant is innocent and has been falsely implicated in the present matter. Learned counsel further submits that there are omissions, variations and contradictions in the statement of witnesses, and the Courts below committed error in not properly appreciating the evidence, correctness of the finding, therefore, the impugned judgments are liable to be set aside in the revision. It is further submitted that the none of the prosecution witness have proved that the alleged oxen were treated with cruelty by the appellant and such oxen were being transported for slaughter purpose. Lastly it is submitted that since the applicant has already served more than 2 months and 25 days jail sentence and the same be reduced to the period already undergone and the amount of fine may be reasonably enhanced.

04. Learned Public Prosecutor submits that after due appreciation of the evidence learned Courts below have found the applicant guilty of the offence. The revisional jurisdiction of this Court is limited and no interference is called for in the concurrent findings recorded by the Courts below.

05. After hearing learned counsel for the parties and perusal of the record it is noticed that commission of the alleged offence by the applicant is established on the basis of the statements of the Dr. R.K. Kanungo (P.W.1), Rahul Prajapat (P.W.2), S.S. Meena, Asst. S.I. (P.W.3) and Arjunsingh (P.W.4).

06. In view of the aforesaid and on the basis of the material available on the record, this Court is of the considered opinion that the Courts below have not committed any illegality in convicting the applicant for offence under Sections 6/9 of M.P. Govansh Vadh Pratishedh Adhiniyam, 2004 read with Section 66/192 of Motor Vehicle Act, 1988.

07. So far as the period of sentence is concerned, I am of the considered opinion that looking to the nature of allegations and the circumstances of the case and the fact that the applicant has already served approximately 2 ½ months in jail, therefore, the jail sentence awarded to the applicant is reduced to the period of 3 months subject to depositing additional fine of Rs.5,000/- under Sections 6/9 of M.P. Govansh Vadh Pratishedh Adhiniyam, 2004 by the applicant, within a period of thirty days. In default of payment of enhanced fine amount, the applicant shall suffer 2 months R.I under Section 6/9 of M.P. Govansh Vadh Pratishedh Adhiniyam, 2004.

08. With the aforesaid modification the revision petition is disposed of.

Let a copy of this order be sent to the concerned trial Court for information and necessary compliance.

(S. K. AWASTHI)
JUDGE

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Digitally signed by Sumati
Jagadeesan
Date: 2018.05.04 15:46:43 +05'30'