
State of H.P. Vs Vinod Kumar

Criminal MMO. No. 116 of 2008.

Court: High Court of Himachal Pradesh

Date of Decision: Sept. 29, 2010

Acts Referred:

Forest Act, 1927 " Section 41, 42, 45, 52(A), 52(B)#Motor Vehicles Act, 1988 " Section 187#Penal Code, 1860 (IPC) " Section 279, 337, 379

Hon'ble Judges: Dev Darshan Sood, J

Bench: Single Bench

Judgement

Dev Darshan Sud, J.

The State is aggrieved by the appellate order passed by learned Sessions Judge, Solan, in an appeal against the

order passed by the Authorized Officer-cumDivisional Forest Officer, Solan on 3.7.2006, in a case arising out of the F.I.R. No. 83/2005 under

Sections 279, 337 and 379 I .P. C., Sections 41 and 42 of the Indian Forest Act, and u/s 187 of the Motor Vehicles Act registered at police

station, Kandaghat.

2. The Authorized Officer, vide his order which was set aside in appeal by the learned Sessions Judge, holds that the vehicle in question was

carrying timber which was being transported without valid permit and therefore involved in an offence under the Indian Forest Act. In these

circumstances, the Officer passed an order of confiscation under Sections 52-A and 52-B of the Indian Forest Act. This was challenged by the

respondent herein before the learned Sessions Judge, Solan.

3. In the appeal, the learned Sessions Judge considers the relevant factors required u/s 52-A, namely, that the offence should have been committed

with respect to timber (excluding fuel wood), resin, khair wood and katha and the timber should be the property of the State Government. Learned

Court also refers to the provisions of Section 45 of the "Act" and holds that the timber was being transported was not the property of the State

Government. The Court then proceeds to add that no doubt forest offence has been committed and the vehicle has been used for committing such

an offence as the vehicle did not possess any permit but that would not used to invoke the power u/s 52-A of the Act. The Court holds that on the

reading of the First Information Report, the timber was being transported out of the revenue estate of Theog without any permission and T.D.

timber which was being transported by the right holders is not the property of the State. The order of confiscation was set side. A number of

arguments have been addressed by the learned Counsel for the parties.

4. Learned Counsel for the respondent places a reliance on a judgment of this Court in Kuldip Singh v. State of H.P. and Anr. 2010 (1) Him. L.R.

467 to urge that unless there is knowledge with respect to the illicit/illegal transportation, no order of confiscation can be passed.

5. This Court has not been informed as to what is the stage of the trial and as to whether the owner of the truck has been impleaded as one of the

accused in the trial.

6. In these circumstances, this revision petition is disposed of with the direction that the respondent herein shall furnish solvent security in the sum of

Rs. 3,00,000/- to the satisfaction of the learned Sessions Judge, Solan undertaking to produce the truck during trial, if so required, in accordance

with law. Such security be furnished within a period of three months from today. He shall further undertake that in case non production of the truck

when ordered, the security shall stand forfeited to the State. The petition is disposed of.