

(2011) 03 JH CK 0009**Jharkhand High Court****Case No:** Writ Petition (C) No. 4015 of 2003

Bansi Mahto

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision: March 23, 2011**Acts Referred:**

- Forest Act, 1927 - Section 33
- Penal Code, 1860 (IPC) - Section 414

Citation: (2011) 2 JCR 450 : (2011) 8 RCR(Criminal) 1979**Hon'ble Judges:** Rakesh Ranjan Prasad, J**Bench:** Single Bench**Final Decision:** Allowed**Judgement**

@JUDGMENTTAG-ORDER

R.R. Prasad, J.

Heard learned Counsel appearing for the Petitioner and learned Counsel appearing for the State.

2. It appears that an order as contained in annexure 1 was passed on 28.10.1999 by the Authorized Officer-cum-Divisional Forest Officer, Hazaribagh, Forest Division-West whereby a Tractor bearing registration No. BR-13A-9631 and a Tractor bearing registration No. BR-13A-9131 were confiscated on the ground that an offence u/s 414 of the Indian Penal Code and u/s 33 of the Indian Forest Act was committed through the said vehicle. That order was modified by the Appellate Authority whereof the vehicles were ordered to be released on deposit of Rs. 10,000/- as fine. That order on being challenged was set aside by the Revisional Authority.

3. The aforesaid orders passed by the competent authority as contained in annexure 1 and also by the Revisional Authority as contained in annexure 3 have been

challenged.

4. The facts giving rise this application are that when an information was received by the Sub-Inspector, Chitrakut Camp that the coal after being extracted illegally has been carried away in Tractor/Tailor. When the same were intercepted the coal was being unloaded from it which were seized and on that allegation, a case was registered against owner as well as driver of the Tractor and also against the other persons. At the same time, a confiscation proceeding, vide Confiscation Case No. 12 of 1998 was initiated. The Petitioner, who is the owner of the Tractor on putting appearance took a plea that the coal which had been seized was being carried under the valid document but that plea was not accepted and hence, the order was passed on 28.10.1999 whereby Tractor and the Tailor were confiscated. The said order on being challenged before the Appellate Authority was set aside and the Tractor was ordered to be released on certain condition. That order was challenged before the Revisional Authority and the revisional authority by setting aside the order passed by the Appellate Authority restored the order passed by the competent authority.

5. Learned Counsel appearing for the Petitioner submits that subsequent to the order passed by the Revisional Authority, the Petitioner, who was put on trial for the commission of offence u/s 414 of the Indian Penal Code and u/s 33 of the Indian Forest Act was acquitted and hence, the order of acquittal will have much bearing upon the order passed by the Confiscating Authority and thereby the order passed by the Confiscating Authority and also by the Revisional Authority warrants to be set aside.

6. I do find much substance in the submission advanced on behalf of the Petitioner. Admittedly, the Petitioner, who was owner of the Tractor has been acquitted from the criminal charge. As the Petitioner has already been acquitted of the criminal charge, the orders passed by the competent authority as contained in annexure 1 and also by the Revisional Authority as contained in annexure 3 confirming the order passed by the competent authority warrant to be set aside. Accordingly, the same are set aside.

7. Consequently, the Tractor bearing registration No. BR-13A- 9631 and the Tailor bearing registration No. BR-13A-9131 are directed to be released forthwith in favour of the Petitioner. Accordingly, this application is allowed.