

(2001) 04 CHH CK 0002

Chhattisgarh High Court

Case No: Misc. Criminal Case No. 703 of 2001

Prem Chand and
others

APPELLANT

Vs

State of Chhattisgarh

RESPONDENT

Date of Decision: April 10, 2001

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 451, 482
- Madhya Pradesh Krishi Pashu Parirakshan Adhiniyam, 1959 - Section 11, 6, 7
- Prevention of Cruelty to Animals Act, 1960 - Section 11(1)

Citation: (2001) 2 MPHT 93 : (2002) 2 MPJR 12

Hon'ble Judges: R.S. Garg, J

Bench: Division Bench

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

R.S. Garg, J.

By this petition u/s 482, Cr.P.C. the applicants seek to challenge the correctness, validity and propriety of the order dated 23-2-2001 passed in Criminal Revision No. 10/2001 by the 1st Addl. Sessions Judge, Ambikapur (Sarguja) confirming the order dated 15-1-2001 passed on M.J.C. Nos. 5/2001, 8/2001 and 7/2001 by the learned Judicial Magistrate First Class, Ramanujganj (Sarguja) rejecting the applications of the applicants submitted u/s 451, Cr.P.C.

The facts leading to the present petition in nut-shell are that in connection with Crime No. 160/2000 in relation to offences punishable under Sections 11(1)(a), (h) and (n) of Prevention of Cruelty to Animals Act, 1960 and Sections 6, 7 and 11 of M.P. Krishi Pashu Parirakshan Adhiniyam, 1959, 94 cattle including ox, cows, etc. were seized from the custody of Sahmud Khan (applicant No. 3). Similarly, from the

custody of applicant No. 2 Mohd. Sultan and applicant No. 1 Premchand, 49 and 8 cattle were seized. The allegations of the prosecution were that the applicants were not bona fide agriculturist nor engaged in the cattle business but were in fact taking the cattle to Bihar to the slaughter-house. It is also alleged against the applicants that the applicants were treating the cattle with cruelty and were liable to be prosecuted. Each of the applicant submitted an application before the Trial Court u/s 451, Cr.P.C. As the said applications were rejected, the applicants preferred the Criminal Revision Petition No. 10/2001. As the said revision proved futile, the applicants have come to his Court u/s 482, Cr.P.C.

Learned counsel for the applicant submits that from the documents annexed with the present petition, which were also filed before the Trial Court, it would clearly appear that the applicants had purchased the catties either for raising those or for trading in the cattle business and the approach of the police, so also of the Courts below, in fact was contrary to the records. He also submits that the cattle are being looked after properly and in any case the Courts below were unjustified in rejecting the applications of the applicants.

On the other hand, learned counsel for the State submits that the manner in which the cattle were treated rather cruelly treated and were being shifted from Madhya Pradesh to Bihar would clearly show that the applicants in fact are not the cattle grazers but in fact are dealing with the cattle so that they may be taken to the slaughter-house. He also submits that the challan has already been filed and as the trial would not take much time in its disposal, the application deserves to be rejected.

I have heard the parties.

Undisputedly, the first information report was registered on a complaint made by the Sarpanch of Gram Panchayat, Wadrafnagar. The said Sarpanch stated that 151 cattle were being driven about 20-25 kms. everyday and they were not being fed properly. In the complaint, it was also stated by the said Sarpanch that the associates of the present applicants appeared to be residents of Bihar and as they were taking the cattle to Bihar, the police was required to intervene in the matter. On the said complaint of Sarpanch, the first information report was registered by the Station House Officer of Police Station, Basantpur.

Learned counsel for the State though submitted that the cattle were being driven to Bihar but the case diary, barring the statements of some of the persons that the cattle were being driven to Bihar, does not contain anything that on what basis those persons could presume or infer that the cattle were being taken to Bihar. The applicants are shown to be residents of village Maheda, village Ramnagar and village Wadrafnagar, all within the jurisdiction of Police Station Basantpur. If that is so, the defence of the present applicants that the cattle belong to them and that they are raising the cattle either for their own use or for trading cannot be

considered to be a false story. In any case, the applicants so long as they are not held guilty would be entitled to the custody of their cattle property. 151 cattle if are given in the custody of somebody, then he would be required to look after the cattle and would also be required to make necessary arrangements for fodder and all other things. Ultimately, the expenses will have to be born by the present applicants. The applicants who have yet not been held guilty cannot be saddled with the unnecessary expenditure which are likely to be incurred by the Supruddar. The Courts below without taking into consideration the practical problems which are likely to be faced by all concerned have rejected the applications. The said orders cannot be approved. The orders passed by the learned Courts below deserve to and are accordingly set-aside.

The petition is allowed. It is hereby directed that (a) the cattle would be given to each of the applicant in accordance with his entitlement, on his furnishing a Supurdnama to the satisfaction of the Trial Court, (b) the value of the cattle property shall be ascertained by the learned Trial Court and each of the applicant would be required to furnish solvent security to the satisfaction of the Trial Court. The surety must be a local one, (c) the applicants shall not remove the cattle beyond the jurisdiction of Police Station, Basantpur, (d) each of the applicant shall be obliged to submit a weekly report relating to the cattle before the learned Trial Court.

If any mishap occurs in relation to any of the cattle, then the applicants shall not do away with the dead body of the said animal/cattle but shall immediately make a report of mishap to the concerned police station and shall also make an application to the Court that in view of the said mishap/death of the cattle, proper steps are required to be taken. The Court on receipt of such an application shall pass necessary orders.

The applicants shall also be obliged to submit the medical report of the cattle once a month.

Apart from the above conditions, the Trial Court in its wisdom can impose further conditions as it deems fit in accordance with the law.

Misc. Criminal Case allowed.