



IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLMC No.2959 of 2025

Siraj Kumar Singh

.....

Petitioner

Represented By Adv. -
Chandrakanta Nayak

-versus-

State Of Odisha and others

.....

Opposite Parties

Mr. S.C. Pradhan, ASC

CORAM:
THE HON'BLE MR. JUSTICE ADITYA KUMAR
MOHAPATRA

ORDER
13.08.2025

Order No.

- 02.
1. This matter is taken up through Hybrid mode.
 2. Heard learned counsel for the Petitioner as well as learned counsel for the State. Perused the application as well as the prayer made therein.
 3. By filing the present application under Section 528 of BNSS the Petitioner seeks to challenge the order dated 28.01.2025 passed in Criminal Misc. Case No (CMC).73 of 2024 arising out of 2(b) CC Case No.01 of 2024 corresponding to O.R. Case No.01K of 2024-25 dated 08.04.2024 pending in the Court of the learned S.D.J.M., Talcher and subsequent rejection of his revision petition bearing Criminal Revision No.13 of 2025 by the learned Additional Sessions Judge, Talcher vide order dated 11.07.2025 at Annexure-4 to the application.
 4. Learned counsel for the Petitioner at the outset contended that the vehicle bearing registration No. OD-02-BN-2794 stands



recorded in the name of the present Petitioner and the Petitioner is the lawful owner of the vehicle. The said vehicle was seized in connection with a forest offence punishable under Sections 4, 12, 14 of the Forest Act read with Section 21 of Odisha Timber and Other Forest Produce Transit Rules, 1980. It was seized by the forest authorities in exercise of the power under Section 56 of the Odisha Forest Act. In the aforesaid context, he also referred to the seizure list at Annexure-1 to the application which clearly reveals that the vehicle was seized from one Pitambar Mohapatra, who happens to be the driver of the vehicle while the vehicle was carrying forest products unauthorizedly. Such seizure has been done by the Forest Ranger, Kaniha. After seizure of the vehicle the Petitioner initially approached the authorized officer for release of the vehicle, however, it is stated by learned counsel for the Petitioner that only a show cause notice was issued on 29.03.2025, at Annexure-3 to the application, and no final decision has been taken thereon.

5. The aforesaid inaction of the Authorized Officer-cum-A.C.F., Angul compelled the Petitioner to approach the learned S.D.J.M., Talcher by filing an application under Section 457 of Cr.P.C. Such application having been rejected vide judgment dated 28.01.2025, the Petitioner approached the learned Additional Sessions Judge, Talcher by filing Criminal Revision No.13 of 2025. Being aggrieved by dismissal of the application by learned S.D.J.M., Talcher as well as the rejection of his revision petition, the Petitioner has approached this Court by filing the present application.

6. Learned counsel for the Petitioner contended that since a criminal case has been registered on the basis of the prosecution report and the same has been registered as 2(b) CC Case No.01 of



2024, the Petitioner moved an application under Section 457 of Cr.P.C. before the learned S.D.J.M., Talcher. The learned S.D.J.M., Talcher rejected the application on legally untenable grounds. He further submitted that the revisional authority has also confirmed the order passed by the learned S.D.J.M., Talcher without appreciating the facts in his proper prospective and without applying the correct law. As such, it was argued that both the impugned orders are illegal and liable to be quashed by this Court in exercise of the inherent power of this Court.

7. Learned counsel for the State on the other hand submitted that the learned Courts below have not committed any illegality in rejecting the applications filed by the Petitioner under Section 457 of Cr.P.C. In the aforesaid context, learned counsel for the State further submitted that there is no dispute that the vehicle was seized by the authorized officer in exercise of the power under Section 56 of the Odisha Forest Act. Therefore, the vehicle in question is in the custody of the authorized officer. So far the criminal Court is concerned, a case has been registered for commission of offences under the Forest Act, which is to be tried by the learned S.D.J.M., Talcher in accordance with law. He further submitted that the law is fairly well settled in view of a catena of judgments of this Court that when the vehicle has been seized by the authorized officer and it is in custody, the Petitioner should have approached the authorized officer instead of approaching the criminal Court by filing an application under Section 457 of Cr.P.C. As such, it was contended that such application under Section 457 of Cr.P.C. filed by the Petitioner was not maintainable and as such, the learned Courts have not committed any illegality in rejecting the application of the



Petitioner for release of the vehicle.

8. Having heard the learned counsels appearing for the respective parties, on a careful examination of the background facts as well as on a close scrutiny of the impugned order dated 28.01.2025 passed by the learned S.D.J.M., Talcher which was confirmed by the learned Additional Sessions Judge, Talcher in Criminal Revision No.13 of 2025 vide impugned judgment dated 11.07.2025, this Court observes that the Petitioner has approached this Court basically being aggrieved by the rejection of his prayer for release of the vehicle. The materials on record show that the vehicle of the Petitioner was seized by the forest authorities under Section 56 of the Odisha Forest Act while it was unauthorisedly carrying forest produce. On the basis of the prosecution report a complaint case has been registered, which is pending before the learned S.D.J.M., Talcher. With regard to the vehicle, there is no dispute that the same was seized by the authorized officer and is in the custody of such authorized officer. Therefore, the question that is required to be decided in the present application is as to whether the Petitioner has done the right thing by approaching the learned S.D.J.M., Talcher for release of the vehicle by filing an application under Section 457 of Cr.P.C. or should the Petitioner have approached the authorized officer who had seized the vehicle under Section 56 of Odisha Forest Act, given that the vehicle is still in his custody?

9. The issue involved in the present application has already been answered by several judgments of this Court. Such judgments have also been taken note of by the learned Revisional Court while dismissal of the revision petition of the Petitioner. On a perusal of the judgment dated 11.07.2025, it is observed that the learned



Revisional Court has taken note of the judgment of this Court in *Sarat Kumar Malu v. State of Orissa* reported in 1984 CriLJ (984) as well as in *Kuril Tiria v. State of Orissa* reported in 2007 CriLJ (3008). The position of law with respect to the present dispute has been clarified in the above noted two judgments and the same clearly lays down that in a case of seizure of vehicle by the forest officials, the criminal Courts have no jurisdiction to release such vehicle in exercise of the power under Section 457 of Cr.P.C. This Court also, while considering the present application, agrees with the aforesaid proposition of law which has been laid down after taking into consideration the provisions contained in Section 56 of Odisha Forest Act as well as Section 457 of Cr.P.C. In view of the aforesaid analysis, this Court is of the view that the Courts below have not committed any illegality in rejecting the application of the Petitioner. Accordingly, the present application is being disposed of. It is further made clear that in the event the Petitioner approaches the authorized officer as provided under the Odisha Forest Act for release of his vehicle, the learned authorized officer shall do well to dispose of the application strictly in accordance with law, as expeditiously as possible, preferably within a period of six weeks from the date of communication of a certified copy of this order.

10. With the aforesaid observation/direction, the CRLMC stands disposed of.

(*Aditya Kumar Mohapatra*)
Judge

S.K. Rout