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SLP(Crl.)No. 1836 OF 2001
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IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. 648 of 2001@@
EEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEE
(Arising out of S.L.P. (Crl.) 1836 of 2001)

Central Bureau of Investigation, N.Delhi ..Appellant

Vs.

Moti Lal & Ors. ..Respondents

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.....L.....I.....T.....T.....T.....T.....T.....T.....T.....J
.SP2

Leave granted.
Issue notice.

Mr. Sanjeev Sachdeva, Adv. accepts notice for respondent No. 1 - Moti Lal.

Due to exigency both sides agreed that the matter can be heard and disposed of today.

A complaint has been filed against the first respondent - Moti Lal for the offence under Section 49-B of the Wild Life (Protection) Act, 1972 read with Section 51 of the said Act (hereinafter referred to as 'the Act'). First respondent was arrested in September, 2000 and remained in judicial custody. Nonetheless he has chosen to move habeas corpus writ petition before the Allahabad High Court. A ..2/-

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Division Bench of the High Court by the impugned order allowed the writ petition and ordered him to be set free forthwith. The learned Judges of the Division Bench thought that the offence pitted against the first respondent is under Section 50(3) of the Act. The following observations have been made by the learned Judges while allowing the writ petition:

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"A perusal of the above provision shows that only a person who is in the possession of the animal etc. can be arrested. A perusal of the impugned F.I.R., Annexure I to the writ petition, shows that there is no allegation that the petitioner was in possession of the animals skins. Rather the allegation is only that the petitioner had booked the consignment of wild life animals but there is no allegation that they were in his possession. Section 50 is a penal provision and hence it must be strictly construed.

As regards Section 50(3), there is no

allegation that the petitioner when arrested refused to furnish him name, address etc. Hence this sub-section also does not apply. Consequently, the petitioner's arrest is illegal and he is entitled to be set free.

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We are no doubt conscious of the fact that leopards, tigers etc. are endangered species and therefore strong action must be taken against all those who wants to kill those animals but we have to see the provisions of the Act and cannot pass orders which are beyond the purview of the said Act merely because of our feelings."

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There is no warrant for making the above observations as the offence alleged against the first respondent was under Section 49-B read with Section 51 of the said Act. When the arrest was made in accordance with law and he was remanded to judicial custody we do not find any scope for the High Court to entertain a habeas corpus writ petition and quash the same without looking into the purport of the order under which he was remanded to judicial custody.

Learned counsel for the first respondent was not able to support, the order passed by the Division Bench of the High Court. The learned Judges mistakenly thought that the offence was under Section 50 of the Act.

We, therefore, set aside the impugned judgment.

The prosecution launched against the first respondent must proceed in accordance with law until it reaches its logical conclusion. But we are inclined to afford some relief to the first respondent as he remained in jail for about three months since his arrest. We direct him to surrender before

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the trial court within two weeks from today. If he applies for bail the trial Judge shall release him on bail on such conditions as may be fixed by the trial Judge. While fixing the conditions the trial Judge shall ascertain what are necessary conditions necessary to prevent re-occurrence of the alleged offences at the hands of the first respondent. All such conditions shall also be incorporated by him in the bail order.

With these observations this Appeal is disposed of.

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.....J.@@

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(K.T. THOMAS)@@

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.....J.@@

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(R.P. SETHI)@@

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NEW DELHI@@

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MAY 12, 2001 @@

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respondent No. 1 - Moti Lal.

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be heard and disposed of today.

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.SP1

.....J.@@

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(K.T. THOMAS)@@

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.....J.@@

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(R.P. SETHI)@@

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NEW DELHI@@

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MAY 12, 2001 @@

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ITEM No.10

Court No. 3

SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No. 1836/2001

(From the judgement and order dated 14/12/2000 in CMHCW 51130/00
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

CENTRAL BUREAU OF INVESTIGATION, N.DELHI

Petitioner (s)

VERSUS

MOTI LAL & ORS.

Respondent (s)

(With Appln(s). for ex-Parte stay & exemption from filing O.T.)

Date : 12/05/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.T. THOMAS

HON'BLE MR. JUSTICE R.P. SETHI

For Petitioner (s) Mr. Harish Salve, S.G.
Mr. Syed Naqvi, Adv.
Mr. P. Parmeswaran, Adv.

For Respondent 1 Mr. Sidharth Luthra, Adv.
Mr. Sanjeev Sachdeva, Adv.
Mr. Pramod Dubey, Adv.
Ms. Priya Mehra, Adv.

UPON hearing counsel the Court made the following

O R D E R

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Application for exemption from filing Official
Translation is allowed.

Leave granted.

Issue notice.

Mr. Sanjeev Sachdeva, Adv. accepts notice for
respondent No. 1.

Appeal is disposed of in terms of the signed order.

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(N.K. Goel)

Court Master

(Signed order is placed on the file)

(H.K. Bhatia)

Court Master