

1999 SCC OnLine Gau 215 : (1999) 3 Gau LR 370

Gauhati High Court
(BEFORE N.C. JAIN, J.)

Nathuni Singh ... Petitioner;

Versus

Deputy Commissioner, Diphu & Anr. ... Respondents.

Criminal Revision Petition No. 338 of 1991

Decided on May 21, 1999

Assam Forest Regulation, 1891, S. 51 — Section 51 will come into play only if a person is convicted of forest offence — Petition acquitted of the charge — Vehicle of the petitioner cannot be confiscated.

A bare reading of Section 5 of the Assam Forest Regulation, 1891 makes it clear that the convicting Court could order the confiscation of the truck used in the commission of the offence on finding owner guilty. The word any person convicted of a forest offence clearly envisages that section 51 would come into play only if a person is convicted of forest offence. If the petitioner had been convicted of any forest offence only then, section 51 could be resorted to for ordering confiscation. Section 51 in view of the innocence of the petitioner could not be invoked by the learned Deputy Commissioner. This is the only interpretation which can be given to section No. 51.

[Para 3]

Advocates who appeared in this case:

Mr. J.M. Choudhury and Mrs. R.T. Phukan, for the petitioner.

Mr. B. Banerjee, P.P. Assam, for the respondents.

JUDGMENT AND ORDER

1. This revision petition has been filed by Nathuni Singh only against the order of the Deputy Commissioner, Karbi Along, Diphu dated 19-7-91. The case of the prosecution in brief was that on the night of 2:3-10-90 Forest staff caught red handed Truck No. NLN 1939 along with its driver Surendra Kumar Das and some labourers. Truck was alleged to have been loaded with six pieces of logs and was proceeding towards Dimapur in clandestine manner through jungle route avoiding forest check. According to the case of the prosecution the logs were brought from Daldoli Reserve Forest. The said truck and logs were seized and the accused persons were arrested. The petitioner was admittedly not present and was summoned at a later stage, he being the owner of truck.

2. The learned trial Court after trial found only Surendra Kumar Das guilty of the offences under sections 25, 40/41 of the Assam Forest Regulation. The petitioner has admittedly not been found



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guilty of any offence whatsoever. He has been acquitted primarily on the ground that there was no direct involvement proved against him. However, the learned Deputy Commissioner while invoking the provision of section 51 of Assam Forest Regulation ordered the confiscation of the truck belonging to the petitioner to the state. It was ordered that the truck be auctioned.

3. The counsel for the petitioner Mr. J.M. Chowdhury, senior advocate has argued that once the petitioner has been acquitted of the charge. his truck could not be

confiscated. The argument has got force and deserves to be accepted. A bare reading of section 51 of the Assam Forest Regulation, 1891 makes it clear that the convicting court could order the confiscation of the truck used in the commission of the offence on finding owner guilty.

4. The word any 'person' if convicted of a forest offence clearly envisages that Section 51 would come into play only if a 'person' is convicted of forest offence. If the petitioner had been convicted of any forest offence only then, section 51 could be resorted to for ordering confiscation. Section 51 in view of the innocence of the petitioner could not be invoked by the learned Deputy Commissioner. This is the only interpretation which can be given to section 51.

5. For the reasons recorded above the revision petition is allowed. The order of the Deputy Commissioner, is so far as it pertains the petitioner, is hereby set aside.

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