



Serial No. 07
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.M.C. No. 20 of 2018

Date of order: 12.03.2019

Shri Debu Kumar Das Vs. State of Meghalaya & Ors.

Coram:

Hon'ble Mr. Justice Mohammad Yaqoob Mir, Chief Justice

Appearance:

For the Petitioner/Appellant(s) : Mr. A.H. Hazarika, Adv.
For the Respondent(s) : Ms. S.G. Momin, Addl.PP

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

Oral:-

1. In connection with G.R. Case No. 132 of 2013 and G.R. Case No. 129 of 2013, two vehicles (trucks) bearing registration Nos. WB-15-A-9188 and WB-15-B-4935 were seized and then released in favour of petitioner company being the financier, with certain conditions which include a condition "*not to sell or to transfer the vehicle*". Subsequently, petitioner company seem to have filed an application for modification of the said condition, unsuccessfully, as the application has been rejected by the learned Deputy Commissioner (J), East Jaintia Hills District, Khliehriat (trial court) in the year 2018. Aggrieved whereof, petitioner company has proposed to file a revision petition after a delay of 221 days. That being so, an application seeking condonation of delay has been filed, objections by the respondents have been filed.

2. While considering the application seeking condonation of delay with the assistance of the learned counsel for the parties merit of the case was considered so as to ascertain as to whether by condoning the delay revision can be maintained.



3. On thoughtful consideration of the material as well as the orders passed, it has surfaced that basically the vehicles were allegedly carrying narcotics. The question is as to whether prayer for relaxing the condition aforesaid is tenable or not but before addressing that point another question is as to whether revision petition can be maintained because order declining modification in essence, is an interlocutory order. Such an order is open to be modified by the learned trial court subject to its satisfaction. True it is that the vehicles have remained parked right from the date of occurrence i.e., from the year 2013 even after release in favour of the petitioner company are not being plied, as such are still parked. It is in the same background the petitioner company had projected before the learned trial court that the vehicles will get deteriorated as by keeping the vehicles parked will get rusted, that will not be in the interest of any party.

4. The submissions of the learned counsel for the petitioner is that the trial of the case is at its infancy stage, it may take years together by then, the vehicles will be reduced to debris, the company will be the ultimate sufferer. Once, it is observed that the revision petition against the order impugned is not maintainable it would not be appropriate to comment on the merit or the right of the petitioner regarding modification of condition i.e., *“not to sell or to transfer the vehicle”*, to condone the delay and then to dismiss the revision petition as not maintainable shall be idle formality. It is open to the petitioner company to lay a fresh motion before the learned trial court for modification of the aforesaid condition and in case laid, learned trial court shall consider it in the light of the observations made hereinabove and while disposing of the application shall also keep in view the impact of release of the vehicles on the merit of the trial. In short, it is left to the discretion of the learned trial court to pass appropriate orders on the motion as shall now afresh be laid by the petitioner company.



5. For the stated reasons, delay is not now required to be condoned, application accordingly disposed of along with proposed revision petition.

(Mohammad Yaqoob Mir)
Chief Justice

Meghalaya
12.03.2019
"Sylvana PS"

