

**IN THE COURT OF THE SESSIONS JUDGE, KHURDA AT
BHUBANESWAR.**

Present:

Dr. D.P. Choudhury,
Sessions Judge, Khurda
at Bhubaneswar.

Dated, Bhubaneswar the 11th Feb. '15.

Crl. Revision No.60 of 2014.

[Arising out of the order dated 29.10.2014 passed by the learned J.M.F.C.(O), Bhubaneswar in C.M.C. No.80 of 2014, corresponding to 2(a)C.C. Case No.68 of 2014.]

Ladookishore Dash, aged about 52 years, S/o. Late Giridhari Dash, At - Gandhi Nagar, P.O./P.S. - Jatni, District - Khurda.

... **Petitioner.**

-V e r s u s-

State of Odisha.
Party.

... **Opp.**

Counsel :

For Petitioner -- Shri B.K. Pattnaik & Associates.

For O.P. -- Shri B.B. Mohanty, P.P. in-charge.

Date of arguments : 02.02.2015.

Date of order : 11.02.2015.

O R D E R

This revision is directed against the order dated 29.10.2014 passed by the learned J.M.F.C.(O), Bhubaneswar in C.M.C. No.80 of 2014, rejecting the petition filed by the

petitioner under section 457 of the Cr. P.C. to release a Hero Splendor Pro motor cycle bearing registration No. OD-02M-6507, which was seized in connection with 2(a)C.C. Case No.68 of 2014 under section 47(a), Bihar & Orissa Excise Act, 1915 (hereinafter called “the Act”).

2. I have heard learned counsel for the parties and perused the materials on record. The report of the S.I. of Excise reveals that neither confiscation proceeding has been started, nor the seized vehicle has been produced before the Collector, Khurda as yet for its disposal according to law. From the seizure list and seized documents, it appears that the accused-petitioner is the owner of the concerned conveyance to which section 66 of the Act will apply. According to this provision, the Collector has got jurisdiction to confiscate if the owner of conveyance is involved in the commission of the offence. This view finds support from the decision reported in **(2003) 25 O.C.R. – 840 (Soubhagya Vs. State)**, where Their Lordships have been pleased to observe at para-7 as under :

“7. xxx xxx xxx

But if the provisions of the Act do not make any specific provision or do not vest any special jurisdiction or power or lay down any special form or procedure, the general provisions of the Cr. P.C. including jurisdiction and powers vested in the Magistrate will apply even to offences under the Act. Since the power of the Collector of the Excise Officer to release a

property pending final orders by the Magistrate under Section 67(1) of the Act is confined to only property seized as liable to confiscation under Section 66 of the Act and does not extend to the property which is not seized as liable to confiscation, the Magistrate will have the powers under Sections 451 and 457 of the Cr. P.C. to deal with such property not liable to confiscation in the manner indicated in the said provisions of Sections 451 and 457 of the Cr. P.C.”

3. With due respect to the above decision, I find in the instant case that the Collector is the appropriate Authority to dispose of the property, as the accused-petitioner being the owner of conveyance is involved in the commission of the offence.

4. In view of the aforesaid analysis, the order of the learned J.M.F.C.(O), Bhubaneswar for not disposing of the property, of course on some other grounds, is concurred herewith. Hence ordered :

O R D E R

The Criminal Revision bears no merit and, accordingly, the same stands dismissed without cost.

**Sessions Judge, Khurda
at Bhubaneswar.**

11.02.2015.

Dictated, corrected by me and pronounced in the open Court this day the 11th February, 2015.

**Sessions Judge, Khurda
at Bhubaneswar.**

11.02.2015.