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MCRC-4481-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE HIMANSHU JOSHI

ON THE 11th OF FEBRUARY, 2026

MISC. CRIMINAL CASE No. 4481 of 2025

THAKURDAS YADAV

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Vishal Vincent Rajendra Daniel - Advocate for the petitioner.

Shri C.S. Upadhyay - Panel Lawyer for the State.

Shri Bramha Nand Pandey - Advocate for respondents No.2 and 3.
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ORDER

This petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS") has been preferred challenging the order dated 16.12.2024 passed by the learned Sessions Judge, Tikamgarh in Criminal Revision No.138/2024, whereby the revisional Court affirmed the order dated 22.11.2024 passed by the learned ACJM, Tikamgarh in UNCR No.19/2024.

2. By the order dated 22.11.2024, the learned ACJM, while considering an application under Section 156(3) of the Code of Criminal Procedure, 1973 directed that if the tractor in question is found to be within the title and ownership of the complainant, the same be seized and kept within the precincts of the police station and a report be submitted before the Court.

3. Brief facts of the case are that the respondent No.2 & 3 filed a complaint



under Section 156(3) of Cr.P.C stating that on 6th of July 2023, while the respondent No.3 was going to his sister's house on his tractor, the petitioner herein along with other unknown accused persons pushed him down from the tractor and robbed the tractor. Allegedly, an offence under Sections 392/34 of the Indian Penal Code was alleged.

4. Learned counsel for the petitioner submits that while dealing with an application under Section 156(3) of Cr.P.C., the Magistrate was only required to examine whether a *prima-facie* case for directing investigation is made out and no interlocutory or conditional order of seizure could have been passed. There exists a serious and bona-fide dispute of title and ownership of the tractor between the petitioner and respondent No. 2. The controversy pertains to civil rights arising out of competing claims over ownership and possession of the vehicle. A civil suit regarding the same property is pending consideration before the competent Civil Court. The respondent No.2 after receiving sale consideration has not transferred the tractor in the name of the petitioner. The impugned order amounts to adjudication of civil rights under the garb of criminal proceedings.

5 . *Per contra*, learned counsel for the respondents has supported the impugned orders and submitted that the direction was only to secure the property during investigation and does not finally determine title.

6. I have heard learned counsel for the parties and perused the record.

7. The scope of Section 156(3) Cr.P.C. (now Section 175(3) BNSS) is limited. At the stage of exercising jurisdiction under the said provision, the Magistrate is required to examine whether the allegations disclose



commission of a cognizable offence warranting investigation by police.

8. It is well settled that at the stage of directing investigation under Section 156(3), the Magistrate does not adjudicate disputed questions of title or civil rights. The direction issued by the learned ACJM that *"if the tractor is within the title and ownership of the complainant, the same be seized"* necessarily presupposes a determination regarding title and ownership. Such determination is beyond the scope of proceedings under Section 156(3) of the Cr.P.C. Where a civil dispute regarding ownership is admittedly pending before the competent Civil Court, the Criminal Court must exercise restraint so as not to pass orders which may prejudice the adjudication of civil rights.

9. The power of seizure during investigation lies with the Police under the relevant provisions relating to investigation. The Magistrate, while exercising jurisdiction under Section 156(3) cannot issue conditional directions hinging upon adjudication of title, which is a matter for trial or civil adjudication.

10. The revisional Court while affirming the order has also not adverted to this jurisdictional limitation.

11. In view of the foregoing discussion, it is held that the order dated 22.11.2024 passed by the learned ACJM, Tikamgarh in UNCR No. 19/2024, as affirmed by the order dated 16.12.2024 passed by the learned Sessions Judge, Tikamgarh in Criminal Revision No. 138/2024, to the extent it directs conditional seizure of the tractor on the basis of disputed title and ownership, cannot be sustained in law.

12. However, it is clarified that the Magistrate shall free to consider the



application under Section 156(3) Cr.P.C. strictly in accordance with law, limited to the question whether a cognizable offence is made out. The Investigating Agency, if investigation is directed and undertaken, shall be free to exercise its statutory powers in accordance with law, without being influenced by any observations made in this order. The Civil Court shall independently adjudicate the dispute regarding title and ownership uninfluenced by any criminal proceedings.

13. The petition stands *allowed* to the extent indicated above. No order as to costs.

(HIMANSHU JOSHI)
JUDGE