

(ii) LANDMARK CASES ON SEIZURE OF VEHICLES IN WILDLIFE OFFENCES

Case No. 1

In the case of *M.P. vs. Sayed Yahya Ali*, it has been held that Section 39 (which was amended in 1991) clearly lays down that a vehicle which is involved in a wildlife offence and has been seized under the provisions of The Wild Life (Protection) Act, shall be the property of the State Government. As a consequence to the 1991 amendment of Section 39, Section 50 of the Act was also amended. The judgement for this case states that "the very purpose of carrying out the amendment making the seized vehicle the property of the Government would be defeated by directing the return of the vehicle on furnishing security in the accused". The power to release the vehicle has been expressly removed by omitting sub section 2 of Section 50 in order to ensure that the seized vehicle should not be returned to the accused.

Case No. 2

State of M.P. vs Asad Amin - 1995 MPLJ 792 (Gwalior Bench), is a case that is widely quoted. As per this decision any property that has been used in a wildlife related offence and seized under provisions of The Wild Life (Protection) Act, becomes Government Property. This is evident because consequent changes have also been made in Section 39 and Section 50 of the Act to ensure that any property that is seized under the Act becomes Government Property.

Case No. 3

In *State of Karnataka vs. K. Krishnan* reported in 2000 (5) 611, it was held that "the courts cannot shut their eyes and ignore their obligations indicated in the Act enacted for the purpose of protecting and safeguarding both the forests and their produce. The forests are not only the natural wealth of the country but also protect the human life by providing a clean and unpolluted atmosphere. We are of the considered view that when any vehicle is seized on allegation that it was used for committing a forest offence, the same shall not normally be returned to the party till the culmination of all the proceedings, if any. Nonetheless, if for any exceptional reasons a court is inclined to release the vehicle during such pendency, furnishing a bank guarantee should be the minimum condition.

No party shall be under the impression that release of vehicle would be possible on easier terms, when such vehicle is alleged to have been involved in commission of a forest offence. Any such release would tempt the forest offenders to repeat commission of such offences. Its casualties will be the forest as the same cannot be replenished for years to come".

Case No. 4

In *State of Uttar Pradesh vs. Ran Veer Singh* dated 31, August, 2003 it was held that "in the light of this court's decision in *State of Karnataka vs. Krishnan* [2000 (5) scale 611] we set aside the impugned order and direct the High Court to dispose of the criminal revision afresh. At the same time we observe that the direction regarding release of the truck will remain undisturbed as the truck was already released on the concession made by Addl. Government advocate before the High Court?."

LEGAL OBSERVATION

Any weapon, tool or vehicle that is used - or even suspected to have been used - in the commission of any wildlife related offence, if seized, becomes Government property as per the provisions of Section 39 of The Wild Life (Protection) Act 1972. However, the manner in which such articles, vehicle etc. have been dealt with is subject to the Court's discretion. Courts throughout the country have used general principles of law under the Code of Criminal Procedure to deal with properties seized in a wildlife offence. Courts previously used to release vehicles, traps and other tools that had been used in the commission of a wild life crime on *supradari*. The provisions relating to "Disposal of Property" [Section 451 Cr. P.C. under the Criminal Procedure Code] were normally adhered to in such seizures. However the Courts have since differentiated between other seizures and seizures in the case of forest and related offences under the Indian Forest Act, 1927.

Section 39 of The Wild Life (Protection) Act has invited maximum court attention in the last 8 to 10 years in various High Courts throughout the country. There have been judgements that supported the stand of the Forest Department to seize vehicles, while some of the Madhya Pradesh High Court judgements actually endorsed the view that a vehicle involved in a wildlife offence can be released on *supradari*. Although there have been some notable exceptions, in the case of property seized under The Wild Life (Protection) Act the general practice has been to release the property. This has caused widespread confusion in the minds of the wildlife enforcement authorities.

Two recent Supreme Court judgements have now overruled all the earlier judgements of various High Courts throughout India, In *State of Karnataka vs. K. Krishnan* Reported in 2000 (5) 611 and *State of Uttar Pradesh Vs. Ran Veer Singh* dated 31 August, 2000, it was held that a vehicle involved in a wildlife crime could not be released on *supradari* till the culmination of the trial. Hence after the *State of Karnataka vs. K. Krishnan* judgement, all the decision of the different High Courts were overruled to the extent herein that they allowed the release of vehicle involved in a wildlife offence.

CONCLUSION

As per wildlife legal jurisprudence the judgement passed by the Honourable Supreme Court is the law of the land. Hence their decision in *State of Karnataka vs. K. Krishnan* reported in 2000 (5) 611 and *State of U.P. Vs. Ran Veer Singh* dated 31 August 2000, clearly endorses the amendments in Section 39 and Section 50 of the Wildlife (Protection) Act, whereby the power to return vehicles seized by officers was withdrawn. The purpose of the respective judgements passed by the Supreme Court is to discourage all attempts by trial courts to release seized vehicles, even on *supradari*, in order to ensure that the same accused do not commit Wildlife crimes in the future.

This note has been prepared to spread awareness throughout India on the apex court judgement, in order to halt the release of vehicles involved in wildlife crimes.