

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.7266 of 2013

Arising Out of PS.Case No. -12 Year- 2009 Thana -RISHIUP District- Aurangabad

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Dilip Singh, Son of Late Tribhuwan Singh, Resident of village Balia, P.S.
Amba, District Aurangabad.

.... Petitioner

Versus

1. The State of Bihar.
2. Om Prakash Gupta, Son of Nand Kishor Gupta, Resident of village
Sundraganj, P.S. Risiup, District Aurangabad.

.... Opposite Parties

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Appearance :

For the Petitioner : Shri Archana Mishra, Advocate

For the State : Shri Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA
ORAL ORDER

4 06-05-2015

Heard Smt. Archana Mishra on the petition which seeks the release of the truck bearing Registration No. JH02J9671 which was seized in connection with Rishiap P.S. Case No. 12 of 2009. The petitioner Dilip Singh claimed himself to be the rightful owner of the truck on account of the vehicle having been registered in his name and also filed a compromise petition duly signed by him and sought the release of the truck on that basis.

The learned Magistrate who passed order dated 14.08.2012 in Rishiap P.S. Case No. 12 of 2009 (G.R. No. 307 of 2009) noted that a requisition had been received by the police of Rishiap police station in the district of Aurangabad informing them that the truck was also the subject matter of Daltenganj (Town) P.S. Case No. 443 of 2008 dated 17.11.2008 under

different sections of the Indian Penal Code and the vehicle was not to be released as such. The learned Magistrate passing the impugned order took note of the above prayer of Daltenganj police and refused to release the truck in favour of the petitioner.

Before I proceed further, it may be pertinent to point out that on the basis of the written report of Om Prakash Gupta, Rishiap P.S. Case No. 12 of 2009 was instituted. It was stated in the written report that the informant Om Prakash Gupta had hired the truck in question from petitioner Dilip Singh and had consigned 270 bags of paddy to Mahamaya Rice Mills, Ambikapur but the consignment did not reach the destination and on making enquiry on cellular phones of the petitioner, noted in the written report, the informant found that the same were on switch off mode. Ultimately, he enquired from the family members of the petitioner about him and could know that the consigned 270 bags of paddy was sold by present petitioner and he was plying the truck by changing its registration number.

The learned counsel appearing on behalf of the petitioner has drawn the attention of the Court that as from the written report so also from the certificate of registration (Annexure-3) and certificate of fitness annexed with the petition besides the copy of *Chalan* which was filed by the petitioner for

depositing the consolidated national permit fee it was indicated that the vehicle was registered in the name of the present petitioner and, as such, the petitioner was its rightful owner.

While considering the question of releasing a vehicle which could be the subject matter of an offence or which could have been seized by the police in connection with an offence, the prime question to be decided, first, by the Court is as to who was the registered owner of the vehicle. The presumption is that the person in whose name the vehicle is registered has to be presumed to be the proprietor or owner of the property and such a vehicle should normally be released in his favour. But what appears from the order passed by the learned Magistrate was that the same vehicle was the subject matter of investigation for the commission of offences in connection with Daltenganj (Town) P.S. Case No. 443 of 2008 under Sections 406, 409, 420, 467, 468, 471 and 120B of the Indian Penal Code. It is true that the First Information Report of Daltenganj (Town) P.S. Case No. 443 of 2008 is not available to this Court but it is sufficiently indicated by the impugned order that the case was registered for forging certain documents which allegation appears from the written report in the present case also that the petitioner had changed the number plate and was running the vehicle after having sold 270 bags of

consigned paddy. In such a situation, it does not appear appropriate to issue direction to the Judicial Magistrate, 1st Class, Aurangabad to release the vehicle in favour of the petitioner. Let the petitioner approach the Chief Judicial Magistrate, Daltenganj in connection with Daltenganj (Town) P.S. Case No. 443 of 2008 and if he gets an order of release from there and produces the same before the Judicial Magistrate, 1st Class, Aurangabad who is seized with the trial of G.R. No. 307 of 2009, then the Magistrate shall release the vehicle in favour of the petitioner on terms to be fixed by him.

The petition stands disposed of in the aforesaid terms.

(Dharnidhar Jha, J.)

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