

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.715 of 2014

Arising Out of PS.Case No. -null Year- null Thana -null District- PATNA

Sri Kant Kumar, Son of Sri Krishndev Narayan, R/o Village -Simra, P.S.-Parsa
Bazar, District –Patna Petitioner

Versus

1. The State of Bihar, through the Chief Secretary, Bihar, Patna
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police, Patna Region, Patna
4. The Dy. Inspector General of Police, Magadh Range, Gaya
5. The Superintendent of Police, District Nawada
6. The Dy. Superintendent of Police, District Nawada
7. The SHO Mufassil, Police Station, Nawada

..... Respondents

Appearance :

For the Petitioner/s : Mr. Uday Shankar Choudhary, Advocate

For the Respondent/s : Mr. Purnendu Singh, GP-27

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 17-08-2015

Heard learned counsel for the petitioner and learned
counsel for the State.

2. By filing the instant application under Articles 226
and 227 of the Constitution of India the petitioner has made the
following prayers in para 1 of the application:-

“1. That the instant writ petition is being preferred,
invoking the equitable and extraordinary jurisdiction

of this Hon'ble Court for the grant of the following:-

Relief:

(i) For issuance of an appropriate writ/order/direction including a writ in the nature of mandamus for direction to the respondents to lodge First Information Report on the application or Complaint Case No. 868(C) of 2014 filed by the Petitioner's Driver namely Mahesh Kumar on which the Chief Judicial Magistrate, Nawada also directed to Respondent N.-7 to institute F.I.R. and to investigate.

(ii) For issuance of an appropriate writ/order/direction including a writ in the nature of mandamus for direction to the respondents to recover the vehicle (hywa truck bearing Registration No. BR45G-1837) be recovered which is in the possession of the accused Persons.

(iii) For issuance of the appropriate writ in the nature of Mandamus to direct the Respondent No. 1 to 6 to lodge First Information Report on the application of the Petitioner's driver namely Mahesh Kumar, further monitor the case and investigated through any other senior officer of the Police as the accused persons are in hobnobbing/connivance Respondent No. 7.

(iv) For issuance of the appropriate Writ in the nature of the Mandamus to direct Respondent no. 1 to 6 take departmental action upon the Respondent No. 7, and further appropriate legal action be taken against the Respondent No. 7.

(v) For issuance of an appropriate writ, order or

direction including a writ in the nature of mandamus commanding the respondents to conduct departmental proceeding against the respondent no. 7 and further termination from the service for the violation of right of a citizen.

(vi) For issuance of an appropriate writ, order or direction including a writ in the nature of mandamus commanding the respondents to bring the law in force within the parameters of law without misusing their power and without adopting any coercive means.

(vii) For issuance of an appropriate writ, order or direction fixing the liability upon the respondents for the malpractice for not lodging FIR and deliberately favouring to the accused persons.

(viii) For grant of such other relief/reliefs as the petitioner may be found entitled to in the facts and circumstances of the instant case.”

3. Learned counsel for the petitioner submits that though the main grievance of the petitioner in respect of the institution of the FIR has already been redressed, the vehicle in question i.e. the vehicle bearing registration no. BT 45G 1837 has yet not been recovered. He submits that the investigating agency is in collusion with the accused persons named in the FIR.

4. It would appear from perusal of the supplementary counter affidavit filed on behalf of the respondent no. 10 that in compliance of the order passed by this Court, Muffasil P.S. Case



No. 106 of 2014 was registered and the matter is still under investigation. It transpired during investigation that the original Registration No. of the vehicle bearing Registration No. BR 45G-1837 was BR- 27B-6965 and one Ramnath Nonia had purchased the same on 19.09.2012, on hire-purchase basis through Mahindra & Mahindra Finance Company Ltd. After making some payment, Ramnath Nonia stopped paying EMI to the financier company and he fraudulently sold the vehicle to one Niranjana Mandal of village-Bari Makandpur, P.S.-Gopalpur, District-Bhagalpur, who illegally got the same reregistered as BR 10G 7182 with the same Engine number and Chassis number. Thereafter, one Amar Jyoti took away the vehicle from possession of Niranjana Mandal. In this regard, Niranjana Mandal lodged an FIR vide Gopalpur P.S. Case No. 69 of 2013 dated 19.03.2013 under Sections 420, 406, 467, 468, 471 and 120B of the Indian Penal Code.

5. After completion of investigation of the said case, charge-sheet No. 343 /2013 dated 03.11.2013 has been submitted against the accused Amar Jyoti but the vehicle could not be seized by the Bhagalpur police.

6. It has stated by the learned counsel for the State that one Anuj Yadav and one Kundan Singh, who have been made accused in Muffasil P.S. Case No. 106 of 2014, seized the vehicle

in question on the basis of the original Engine number and Chassis number of the vehicle, being the agent of the Mahindra & Mahindra Finance Co. Ltd. It has further been stated that after seizure, the vehicle was kept at Rajauli yard of Mahindra & Mahindra Finance Co. Ltd. and the same was sold in auction and one of the accused of the present case namely, Anuj Yadav had purchased the same and sold it to a person who is yet to be ascertained.

7. It would be evident from the pleading of the parties that an FIR has already been instituted and the matter is under investigation. The preliminary investigation discloses that the vehicle in question was illegally re-registered. It is a matter of serious concern as to how one vehicle could be registered three times by the authorities of Motor Vehicles Department.

8. The investigating agency must make an in-depth enquiry and submit its report before the Magistrate as early as possible.

9. With the aforesaid observation and direction, the application is disposed of.

(Ashwani Kumar Singh, J.)

Sanjeet/-

U		T	
---	--	---	--