IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1282 of 2014
In
Civil Writ Jurisdiction Case No. 4054 of 2014

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1. Jamil Akhtar @ Md. Jamil Akhtar
2. Md. Shakil Akhtar

Both Sons of Md. Naseem Ansari,
Resident of Village - Minnat Nagar, Haji Subhan,
Police Station - Kotwali, District - Munger.

.... Appellants

Versus

1. The State of Bihar.
2. The Transport Commissioner, Bihar, Patna.
3. The Divisional Commissioner, Munger.
4. The Regional Transport Officer, Munger.
5. The District Transport Officer, Munger.
6. The Officer Incharge (S.H.O.), Kotwali, P.S. Munger.

.... Respondents

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Appearance :

For the Appellants	:	Mr.Md. Abdul Manan Khan, Advocate Mr. Binay Kumar, Advocate Mr. Md. Najmul Hoda, Advocate
For the Respondents	:	Mr. P.K. Verma, A.C. to S.C.-26

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 21-04-2015 This Letters Patent Appeal is preferred against the order dated 23.7.2014 passed by the learned single Judge in C.W.J.C. No.4054 of 2014.

The appellants are the owners of the Bus, bearing registration No.BR-08A-2325, with seating capacity of 53 in all. It is not clear as to whether it is a stage carriage or contract carriage.

The appellants state that the vehicle in question met with an accident in the year 2005 and Sangrampur P.S. Case No.72 of 2005 was registered in relation thereto. It is stated that bus was sent for repair and it was only completed in the year 2012 and when it was being brought from the garage on 10.9.2012, it was seized alleging that the tax amounting to about Rs.2,45,000/- and penalty of Rs.4,00,000/- were not paid.

Challenging the seizure of the bus, the petitioners-appellants filed CWJC No.4054 of 2014. The learned single judge dismissed the writ petition through order dated 23.7.2014. Hence, this appeal.

Heard Shri Abdul Manan Khan, learned counsel for the appellants and Shri P.K. Verma, learned Assistant Counsel to Standing Counsel No.26 for the respondents.

The appellants submit that they did not ply the vehicle since 2005 when it was suffered damage in the accident and it is only in September, 2012 that the repair was complete. The tax due, according to the respondents, is about Rs.2,45,000/- for the entire period.

We do not find any order of seizure on the record. The question as to whether the vehicle of the appellants was operating during the period between 2005 and 2012 and whether tax was not paid, needs to be examined with reference to the record. If it is a fact that the vehicle was involved in an accident and when a case was registered, there was no reason to disbelieve the same. At the most, the dispute would be about the period during which, the vehicle was under repair. However, the continued detention of the seizure of the vehicle would not be of any benefit even to the State as plying of the same would earn some revenue in the form of tax. We are of the view that a conditional order of release can be passed in this case.

We, therefore, allow the appeal and direct that (a) the Bus, bearing registration No.BR-08A-2325, shall be released in case the appellants deposit a sum of Rs.2,00,000/- (Two lakhs), including the amount, if any, paid after the seizure, (b) it shall be open to the appellants to submit representation to the Regional Transport Officer, Munger-the 4th respondent, narrating the facts, including the factum of the accident and the F.I.R. in relation thereto and (c) the appellants shall file undertaking before the 4th respondent that they shall not alienate the vehicle pending enquiry and shall produce it; as and when directed.

The 4th respondent shall pass the orders as regards the period during which the bus was under repair and thereafter make a demand as to the differential amount, if any.

The interlocutory application, if any, shall also stand disposed of. There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Sudhir Singh, J)

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