

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20259 of 2015

Arising Out of PS.Case No. -48 Year- 2015 Thana -MOTIHARI TOWN District-
EASTCHAMPARAN(MOTIHARI)

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Jabbar Hussain S/o Mehboob Alam resident of Baluwa tal, P.S. - Motihari
Town, District East Champaran.

.... Petitioner

Versus

The State of Bihar.

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Sangeet Deokuliar

For the Opposite Party/s : Mr. Ram Chandra Singh(APP)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 28-09-2015 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the Finance Company and learned
counsel for the State.

The petitioner is apprehending his arrest in connection
with Motihari Town P.S.Case No. 48 of 2015 registered under
Sections 420 and 406 of the Indian Penal Code including Section
138 of the Negotiable Instrument Act.

On the last occasion this Court had directed that the
agreement between the parties be brought on record so as to
determine the issue. It appears that a counter affidavit has been
filed on behalf of the Finance Company on 6.8.2015 bringing the
said agreement on record. After perusing the agreement it is clear
that before seizure of the vehicle the Finance Company was
required to give a notice of demand and upon failure of the



borrower to meet his liabilities and/or meet the same even partially, the Financer could proceed to take into possession the vehicle. However, this process has not been followed as the Financer has seized the vehicle and thereafter has also filed the present criminal case. Earlier there was a denial by the Finance Company that the vehicle in question had been seized which was later clarified.

Today also the learned counsel for the petitioner submits that the petitioner is ready to deposit an amount of Rs.2 lacs with the Finance Company so that the vehicle in question may be released in his favour and he shall deposit the rest amount within a period of one year from today.

Learned counsel for the opposite party submits that as on date after the filing of the present application the Finance Company has also proceeded to sell the vehicle after 30.7.2015 which was the date fixed earlier. This act itself amounts to a very shady activity being indulged by the Finance Company and the sale in question is liable to be set aside and/or cancelled.

Considering the offer made by the petitioner and the fact that the Finance Company had proceeded in a manner contrary to the agreement, let the petitioner, above named, in the event of his arrest or surrender in the court below within a period of three weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bond of Rs.10,000/- (Rupees

ten thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Motihari, East Champaran, in connection with Motihari Town P.S.Case No. 48 of 2015, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Anjana Mishra, J)

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