

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.28181 of 2016

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

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1. Shashi Kant Singh @ Shashi Kant son of Sri DSip Narayan Singh resident of Navratan Hata, P.S. - K.Hat, District-Purnea

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umesh Kumar Rai.

For the Opposite Party/s : Mr. Rajesh Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 14-07-2016

Re : Criminal Misc. No. 28181 of 2016.

This application under section 482 of the Code of Criminal Procedure, 1973 has been filed for restoration of Criminal Misc. No. 29633 of 2013 which was dismissed for want of prosecution vide order dated 22.06.2016.

2. It is contended by the learned counsel for the petitioner that due to inadvertence the case could not be marked on 22.06.2016 as a result of which the learned counsel could not appear to press the application.

3. Regard being had to the submissions advanced at the Bar, this application is allowed. Criminal Misc. No. 29633 of 2013 is restored to its original file.

Re : Criminal Misc. No. 29633 of 2013 :

4. Heard Mr. Umesh Kumar Rai, learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

5. By way of the present application preferred under section 482 of the Code of Criminal Procedure, 1973, the petitioner seeks quashing of the order dated 20.04.2013 passed by the learned Sub-divisional Judicial Magistrate, Purnea in G.R. Case No. 1885 of 2010 arising out of K. Hat P.S. Case No. 281 of 2010 instituted under section 406 of the Indian Penal Code and section 28(6), (8)(iv) & (vi) of the Bihar Motor Vehicles Taxation Act, 1994 whereby the petitioner's prayer for discharge from the case has been rejected.

6. According to the prosecution case, it is alleged that the petitioner being the bus owner of the Bus bearing registration No. BR-11C -5811 without clearing the dues of road tax of the said vehicle got Tax Token No. 03260782 issued by the D.T.O. Office, Purnea by playing fraud upon the authorities and put the department to the loss of Rs.5,87,630/-.

7. It is submitted by the learned counsel for the petitioner that the allegation made against the petitioner is baseless and false. The Transport Department had already filed a certificate case before the Certificate Officer under the Public Demand Recovery Act in respect of the alleged dues of Rs.5,87,630/- and on notice the

petitioner has already appeared and filed his objection under section 9 of the said Act. It has been urged that a civil dispute has been given a colour of criminal case just in order to realize revenue from the petitioner.

8. On the other hand learned counsel for the State has submitted that it would be apparent from the impugned order passed by the learned Sub-divisional Judicial Magistrate, Purnea that the petitioner obtained payment receipt of tax without paying the tax by keeping the office staff, namely, Kapildeo Rajak in dark. Several other witnesses, namely, Hira Lal Rajak, Madhukar Vishal, Md. Shariff, Rajesh Kumar and Diwakar Kumar have supported the allegation made in the first information report in course of investigation and their statements have been recorded in different paragraphs of the case diary. He has submitted that the learned Magistrate has rightly held that on the materials available on record, there are sufficient ground for framing of charge against the petitioner under section 420 of the Indian Penal Code as also under sections 28(6) and 28(8)(iv) and (vi) of the Bihar Motor Vehicles Taxation Act, 1994.

9. I have heard the learned counsel for the respective parties and carefully perused the record. On query made by the Court regarding stage of the trial, learned counsel for the petitioner has

failed to give any reply. He has submitted that he is not aware about the proceedings of the case as the impugned order was passed in April, 2013 and presently he is not in touch with his client.

10. Be that as it may, in view of the nature of allegation made in the first information report which finds support from the evidence of several witnesses examined during investigation, I do not find any error in the impugned order passed by the learned Sub-divisional Judicial Magistrate, Purnea.

11. Accordingly, the application being devoid of merit, is hereby dismissed.

(Ashwani Kumar Singh, J)

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