

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.50958 of 2015

Arising Out of PS.Case No. -515 Year- 2015 Thana -LAKHISARAI District- LAKHISARAI

Babita Kumari, Wife of Shambhu Prasad @ Shambhu Prasad Yadav, resident of village - Jitwarpur Niyamat, P.S. Muffasil, District - Samastipur Petitioner

Versus

The State of Bihar

.... Opposite Party

Appearance :

For the Petitioner/s : Mr. Yugal Kishore, Advocate

Mr. Arvind Kumar, Advocate

For the Opposite Party/s : Mr. J. Upadhyay, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 09-05-2016

By way of the present application preferred under Section 482 of the Code of Criminal Procedure, the petitioner seeks quashing of the order dated 16th September, 2015 passed by the learned Sessions Judge, Lakhisarai by which he has rejected the revision application preferred under Sections 397 and 399 of the Code of Criminal Procedure against the order dated 03.09.2015 passed by the learned Chief Judicial Magistrate, Lakhisarai in Lakhisarai P.S. Case No. 515 of 2015 registered under Sections 414 of the Indian Penal Code and Section 25(1-B)a, 26 and 35 of the Arms Act by which the learned Chief Judicial Magistrate, Lakhisarai had refused to release the seized Scorpio vehicle in favour of the petitioner.

I have heard learned counsel for the petitioner and learned counsel for the State.

It would be evident from the order dated 03.09.2015 passed

by the learned Chief Judicial Magistrate, Lakhisarai that the order was not passed on merits of the case. The learned Magistrate observed in the impugned order that the order is being passed at the request of the counsel for the petitioner without seeing the case diary. It would further appear from the aforesaid order that the learned Magistrate had summoned the case diary and due to insistence on the part of the petitioner, the order was passed without looking into the case diary.

In that view of the matter, the Revisional Court refused to interfere with the aforesaid order dated 03.09.2015.

Though, I see no illegality in the order passed by the learned Sessions Judge, Lakhisarai, this application is disposed of with liberty to the petitioner to approach the Court of learned Chief Judicial Magistrate, Lakhisarai once again and seek release of the vehicle, in question, on merits. In case, such an application is filed by the petitioner, the learned Chief Judicial Magistrate, Lakhisarai would summon the case diary and pass appropriate order after perusing the case diary in accordance with law.

(Ashwani Kumar Singh, J)

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