

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Miscellaneous Jurisdiction Case No.3820 of 2016  
Arising out of  
Criminal Writ Jurisdiction Case No. 724 of 2016**

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Bhola Singh, Son of Ramjee Singh, R/o Village - Suba Bigha, Post Office -  
Jamuhar, Police Station - Dehri District - Rohtas

.... .... Petitioner

Versus

1. The State of Bihar through Sri P. K. Thakur, The D. G. P. Bihar, Patna
2. Md. Rahman, the Deputy Inspector General of Police, Shahabad Range, District - Rohtas
3. Pankaj Patel, The Sub - Divisional Officer, Dehri, District - Rohtas
4. Sri Sunil Kumar, The Officer-in-Charge, Dehri Police Station, District-Rohtas
5. Sri Lalan Mochi, The Forester, Tilouthu, at Sasaram, District - Rohtas
6. Sri Himanshu Pandey, the Sub-Divisional Judicial Magistrate, Dehri-on-Sone through the Registrar Civil Court, Rohtas

.... .... Respondents

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**Appearance:**

For the Petitioner/s : Mr. Rakesh Kumar Shrivastava, Advocate.  
For Respondent No.6 : Mr. Lalit Kishore, PAAG-1.  
Mr. Manish Dhari Singh, Advocate.  
Mr. B. B. K. Singh, Advocate.  
For the State : Mr. P. K. Verma, AAG-3.

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**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE  
and  
HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE ACTING CHIEF JUSTICE)**

**Date: 21-12-2016**

The present application was filed alleging willful disobedience by Sub-Divisional Judicial Magistrate, Dehri-On-Sone of an order dated 31<sup>st</sup> August, 2016 passed in Cr.W.J.C. No. 724 of 2016.

2. An order dated 20.10.2016 was passed by the Sub-Divisional Judicial Magistrate, Dehri-On-Sone declining the release of the vehicle in question on the ground that the confiscation



proceedings have come to an end.

3. The brief facts, out of which the present application arises, are that Vehicle Nos.BR-01-GE/3795 and BR-01-GB/6538 were seized for the alleged violation of Forest Act. Since the proceedings were pending before the Criminal Court, this court passed an order dated 29<sup>th</sup> of March, 2016 relegating the petitioner to seek remedy of release of seized vehicle under the Code of Criminal Procedure.

4. Thereafter, the Sub-Divisional Judicial Magistrate passed an order declining the request of the petitioner for release of the seized vehicle on 7<sup>th</sup> of May, 2016. It is the said order which was challenged by the petitioner in C.W.J.C. No. 724 of 2016. The court passed the following order on 31.08.2016.

“The petitioner has invoked the jurisdiction of this Court for setting aside the order passed by the S.D.J.M., Dehri-On- Sone in Forest Case No.10 of 2016 whereby, the request of the petitioner for release of the Truck No. BR-01-GE/3795 and Truck No. BR-01- GB/6538 was not entertained for the reason that the confiscation proceedings have started on 20th February, 2016 and, therefore, the vehicles cannot be released.

Earlier, the petitioner had invoked the jurisdiction of this Court in which this Court had passed an order that since the matter is pending before the Criminal Court, therefore, the remedy of the petitioner is to take recourse of the provisions of the Code of Criminal Procedure for release of the seized goods/vehicles.

No useful purpose will be served to keep the



vehicles seized pending confiscation proceedings which may take some time. Therefore, I deem it appropriate to order release of Truck No.BR-01-GE/3795 and Truck No.BR-01-GB/6538 on superdari to the satisfaction of Sub Divisional Judicial Magistrate, Dehri-on-Sone, District Rohtas in connection with Forest Case No.10 of 2016.”

5. It is, thereafter, the order in question was passed by the Sub-Divisional Judicial Magistrate to the fact that since the confiscation proceeding stands concluded on 20<sup>th</sup> of September, 2016, therefore, the vehicle in question cannot be released.

6. We find that the order passed by the judicial officer declining the release of the vehicle for the reason that the order of confiscation has been passed after the order passed by this Court, is not only illegal but also shows utter disobedience to the order passed by this Court.

7. When the Court passed the order dated 31.08.2016, the confiscation proceeding were pending. Once the confiscation proceeding were pending, an order passed by this Court has to be given effect to by all including the Sub-Divisional Judicial Magistrate. Even if the proceedings would have concluded prior thereto, but still, the officer was bound to release the vehicle, as there was direction to do so. The officer cannot go into the reasons of allowing the application to say that the reasons do not subsist. Since



the order has not been complied with by the Sub-Divisional Judicial Magistrate, we find that such order cannot be sustained and, therefore, set aside. The Sub-Divisional Judicial Magistrate will pass an appropriate order in accordance with law forthwith.

8. It may be mentioned that Section 52(C) of the Indian Forest Act, 1927, bars of Jurisdiction of Court in certain circumstances, but such bar is of the criminal court and not of the writ court exercising jurisdiction under Article 226 of the Constitution of India. Therefore, there was no option with the officer, but to comply with the order passed by this Court.

9. While hearing the contempt application, the Sub-Divisional Judicial Magistrate was called upon to appear in person on 07<sup>th</sup> of December, 2016 to explain as to why he should not be punished for non-compliance of the order passed by this Court. The Sub-Divisional Judicial Magistrate had sought time to file Show-Cause which was initially filed on 15<sup>th</sup> of December, 2016, but at the time of hearing, Mr. Lalit Kishore, learned Principal Additional Advocate General had sought time to withdraw the same and file a fresh show-cause. Mr. Himanshu Pandey, Sub-Divisional Judicial Magistrate filed a fresh show-cause tendering unqualified apology.

10. Though the officer has disobeyed the order passed by this Court, but keeping in view that he has rendered only three



years of service, we do not wish to proceed against him under Contempt of Court Act, but the paper be placed before the Registrar General for consideration of action, if any, required to be initiated against the judicial officer.

11. The present application is, thus, disposed of with the above directions.

**(Hemant Gupta, ACJ)**

**(Dinesh Kumar Singh, J)**

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