

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.31655 of 2013

Arising Out of PS.Case No. -121 Year- 2011 Thana -NAUTAN District-
WESTCHAMPARAN(BETTIAH)

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Akhtar Hussain son of Ahmad Hussain, reident of Vilalge Shastrinagar P.S.
Bagaha Distt West Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. Surendra Prasad S/o Late Ram Sewak Sah, R/V+P.O. Ganga Pipra,
P.S.Paharpur, District East Champaran, Motihari

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Singh No.1, Advocate

For the Opposite Party No.1 : Mr. Gajendra Pd.Yadav, APP

For the Opposite Party No.2 : Mr. Gopal Sharan Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 31-01-2017

This petition has been filed on behalf of the petitioner against the order dated 21.02.2013 passed by learned Chief Judicial Magistrate, Bettiah in Nautan (Jagdishpur) P.S.Case No. 121 of 2011 by which he has rejected the petition filed on behalf of the petitioner for release of the truck bearing Registration No. BR-06G-4718.

2. Heard learned counsel for the petitioner, learned APP as well as learned counsel for opposite party no.2.

3. It has been submitted on behalf of the petitioner that the petitioner is the genuine owner of the truck for which he has filed Annexures 3 and 4. The truck has been found to have validly transferred in the name of the petitioner from the office of the District



Transport Officer, Muzaffarpur. Annexure-4 is the letter of the District Transport Officer, Muzaffarpur addressed to the Chief Judicial Magistrate, Bettiah, West Champaran informing that the claim of the petitioner with regard to the truck in question was found to be correct.

4. From the impugned order it appears that the court below has rejected the prayer of the petitioner merely on the ground that the informant has alleged that the petitioner has obtained the aforesaid truck by preparing forged documents. This Court does not find any valid reason to allow the truck in question to remain at the police station for long period. From the impugned order itself it appears that the truck is lying there since 2013. In the circumstances, this Court is of the opinion that the order dated 21.02.2013 passed by the learned Chief Judicial Magistrate, Bettiah rejecting the prayer for release of the truck in question in favour of the petitioner was not in accordance with law and accordingly, the same is quashed.

5. The petitioner is directed to file necessary petition for release of the truck in question before court below within three weeks along with valid papers and in that event if the learned court below is satisfied that the petitioner holds valid papers with regard to truck bearing Registration No. BR-06G-4718, then he will release the truck in question with proper security to his satisfaction. The informant-



opposite party no.2 is given liberty to make necessary objection before the court below, if the petitioner files such petition The court below will pass final order within a period of one month from the date of filing such petition by the petitioner. At the time of releasing truck, the petitioner will file an undertaking in the court below that he will produce the truck in question as and when it is required by the court.

6. With the above observations/directions, this petition is allowed.

(Sanjay Priya, J)

Tahir/-

AFR/NAFR	
CAV DATE	
Uploading Date	13.02.2017
Transmission Date	13.02.2017

