

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33951 of 2013

Arising Out of PS.Case No. -138 Year- 2009 Thana -SILAW District- NALANDA
(BIHARSHARIFF)

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1. Rambriksh Raut S/O Late Bekha Raut Resient Of Village Bhui, P.S-Silao, District- Nalanda.

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Managing Director, Bihar State Power Holding Company Vidhut Bhawan, Patna.
3. The Secretary, Bihar State Power Holsing Company Vidhut Bhawan, Patna.
4. The General Manager Cum Chief Engineer, Transmission Sone, South Nalana.
5. The Electrical Superintendent Of Engineer, Bihar Stat Power Buldingh, Patna.
6. The Electrical Executive Engineer, Bihar State Power Holding Company Electric Supply Division, Rajgir, Nalanda.
7. The Electrical Assistant Engineer, Bihar State Power Holding Company Electric Supply Division, Rajgir, Nalanda.
8. The Electrical Junior Engineer, Silao, Rajgir, Nalanda.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dr.Mankeshwar Tiwari

For the Opposite Party/s : Mr. Anil Pd. Singh (App)

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 10-01-2017 The present application has been filed by the petitioner under Section 482 of the Code of Criminal Procedure for quashing order dated 5.2.2011 passed by the Chief Judicial Magistrate, Nalanda at Biharsharif in G.R.No.3032 of 2009 (Govt. Vrs. Suryamani Kumar and Ors.), by which petition filed by the petitioner for release of 7.5. H.P.Motor, seized by Police in connection with this case, has been dismissed.



The prosecution story in short is that an FIR was filed against the petitioner and other accused persons with regard to theft of energy, in which it has been alleged against the petitioner that they were consuming energy and running Flour Mill ('Aata Chakki') by putting 'toka' causing loss of government revenue of Rs.88,000/-. On the basis of the aforesaid FIR, Silao P.S.Case No.131 dated 12.11.2009 has been instituted against the petitioner and others under Section 379 of the Code of Criminal Procedure and under Section 135 of the Electricity Act. It further appears from perusal of the case that in the present case, a 7.5 HP Motor of the petitioner was seized at the time of occurrence and the seizure list was prepared.

It also appears from perusal of the record that the petitioner had filed an application for release of the motor before the court below and the learned Court below called for a report from the Silao Police Station and after receiving the report, he dismissed the petition filed by the petitioner on the ground that vide order dated 15.3.2010 passed in B.P.No.185 of 2010, the learned Additional District and Sessions Judge –II, Nalanda, while considering bail application No.130/2010, had directed the petitioner to deposit Rs.88,000/- i.e. the revenue loss caused due



to power theft, out of which they have deposited only Rs.28,000/- and in spite of direction of the court that rest Rs.60,000/- they have to deposit in three installments but the same has not been deposited, as such the learned court below has directed the petitioner to deposit the aforesaid amount and thereafter the court will consider their prayer for release of the motor.

It has been submitted on behalf of the petitioner that admittedly the electric line was disconnected at that time and petitioner was provided line through alternate channel, as such it is not possible to run 7.5. HP motor without 440 volt line rather the aforesaid motor was lying in the house of the petitioner and while checking, the petitioner had also been made accused with a false allegation of power theft and 7.5 HP motor was seized. It is further submitted that the petitioner is a poor person and it is not possible to them to pay whole power theft amount. Further submission of the petitioner is that if the seized article shall not be released, it will be damaged as it is kept in open and it is well settled law that if the seized article is kept idle, it should be released on undertaking and it should not be kept in open as no useful purpose will be served in keeping the seized article, as such



the impugned order dated 5.2.2011 is not sustainable in the eye of law, hence the same may be quashed and the learned court below may be directed to release 7.5. HP motor in favour of the petitioner.

Heard learned A.P.P. also, who has submitted that from perusal of the impugned order, it appears that the petitioner was released on bail, subject to condition that they will deposit rest amount i.e.Rs.60,000/- in three instalments as he had earlier deposited Rs.28,000/- but the same has not been deposited, as such the learned court below has directed to deposit the amount then only their prayer for release of the motor will be considered, hence, there is nothing illegal in the aforesaid order rather the petitioner has violated the directions of the learned court imposed upon them at the time of granting bail and the petitioner is not coming with clean hands, hence the application is fit to be dismissed on this score alone.

From perusal of the record, it appears that at the time of consideration of bail of the petitioner, he was directed to deposit the rest amount i.e. Rs.60,000/- in three equal instalments but he had not deposited the same up-till-now and violated the condition imposed . The learned court below had itself observed



that up-till-now the petitioner has not deposited any installment,
as such he had kept the motor of the petitioner till the petitioner
deposit the amount.

Considering the aforesaid facts, I am not inclined to
interfere with the impugned order dated 5.2.2011.

Accordingly, this application is dismissed.

(Vinod Kumar Sinha, J)

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