

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27656 of 2012

Arising Out of PS.Case No. -991 Year- 2010 Thana -null District- PATNA

=====

1. Sidharth Shankar, son of Sri Surendra Singh, Sales Manager, Maurya Motor,
Pataliputra Industrial Estate, Police Station- Pataliputra, District- Patna
.... Petitioner/s

Versus

1. The State of Bihar
2. Rajiv Ranjan, son of Dharmendra Kumar, resident of mohalla- Mogalpura
Chhoti Bazar, Police Station- Khajekalan, District- Patna
.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Jitendra Prasad Singh, Advocate
For the Opposite Party/s : Mr. B. M. P. Sinha, APP

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 07-08-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 22.01.2011 passed by the Judicial Magistrate, 1st class, Patna, in Complaint Case No.991-C of 2010 by which the learned Magistrate after holding enquiry has found *prima facie* against the petitioner for the offence under Section(s) 406 Indian Penal Code.

2. It has been submitted on behalf of the petitioner that the vehicle, in question, was purchased by the complainant on hire-purchase agreement after getting advance/loan from the financier. The complainant was responsible to make payment of the equated monthly installments regularly. The vehicle was seized by



the financier since the payment of EMI was not done by the complainant.

3. The complainant has alleged in the Complaint Petition that he has purchased TATA Winger vehicle bearing registration no.BR 01PA 6575 after making payment of rupees one lac thirteen thousand and the remaining amount was to be paid in 48 installments of rupees thirteen thousand each. The complainant alleged that original paper was not handed over to the complainant. The complainant made demand of his original paper from the petitioner on 10.04.2010, then he was told to contact the office of the accused situated at Tematand, Hazaribagh. The complainant went to Tematand, Hazaribagh, where his vehicle was seized and he was asked to make payment of rupees fifteen thousand for release of the vehicle. The complainant made payment of rupees fifteen thousand but the vehicle was not released.

4. Entire lower court records have been received.

5. The complainant in his Solemn Affirmation has stated the registration number of vehicle is BR 10 PA 6575 and he started plying the vehicle from 20.11.2009. He has purchased the aforesaid vehicle on 20.11.2009 from Maurya Motors, Patna, where this petitioner was Sales Manager, after making payment of rupees one lac thirteen thousand as margin money and the rest amount was



financed by Maurya Motors to be paid in 48 installments of rupees thirteen thousand each.

6. Learned counsel for the petitioner has submitted that Maurya Motor was not the financier as mentioned in the Complaint Petition, rather, money was financed by TATA Finance, which is a separate Finance Company dealing in business of finance and giving loan on the basis of hire-purchase agreement. The petitioner was just Sales Manager in the aforesaid Maurya Motors and had sold the vehicle after getting full payment of the vehicle from the complainant as well as financier. All the original paper was handed over to the complainant at the time of purchase and the complainant himself got registration of the aforesaid vehicle. The complainant has mentioned in the Complaint Petition itself the registration number of the vehicle is BR 10 PA 6575.

7. In such circumstances, from perusal of the Solemn Affirmation of the complainant, statement of the witnesses recorded during enquiry and the allegation in the Complaint Petition, this Court is of the view that no offence under Section 406 Indian Penal Code is made out against this petitioner, who is Sales Manager of Maurya Motors, from which the complainant had purchased TATA Winger vehicle on the basis of hire-purchase agreement entered between TATA Finance (wrongly mentioned in the Complaint



Petition as Maurya Motors) and the complainant.

8. In view of such, impugned order dated 22.01.2011 passed by the Judicial Magistrate, 1st class, Patna, in Complaint Case No.991-C of 2010 along with entire criminal proceeding against the petitioner is hereby quashed.

9. The application is, accordingly, allowed.

J.Alam/-

(Sanjay Priya, J)

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	19-08-2017
Transmission Date	19-08-2017

