

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.514 of 2017

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1. Ajay Kumar Singh son of Shivanath Singh resident of 44, Hari Singh Ke Tola, Karanpura, Sampatchak, Police Station - Gaurichak, District - Patna.

.... Petitioner

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Senior Superintendent of Police, Gaya.
4. The Officer-in-charge, Muffasil Police Station, District - Gaya.

.... Respondents

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Appearance :

For the Petitioner : Mr. Manish Kumar No-2, Adv.
For the Respondents : Mr. Md. N. H. Khan (Sc-I)

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

3 18-05-2017

Heard the learned counsel for the parties.

The petitioner has invoked the writ jurisdiction of this Court for compliance of the order, dated 28.10.2016, passed by the learned Chief Judicial Magistrate, Gaya, in connection with Muffasil P.S. Case No. 322 of 2016 for release of Swift Dezire vehicle, bearing registration no. JH-02Z-2511 in his favour.

The contention of the petitioner is that in spite of the judicial order, passed by the learned Chief Judicial Magistrate, the police authorities are not releasing the vehicle.

On notice the respondents (Collector and the Senior Superintendent of Police, Gaya) are present in Court.

It appears that there is some confusion due to



misinterpretation of the order of the learned Chief Judicial Magistrate. The order, dated 28.10.2016 reveals that the release would be subject to result of any confiscation proceeding in respect of the said vehicle.

The petitioner produced surety bond on 30th November, 2016, before the Chief Judicial Magistrate, Gaya, who accepted the same on satisfaction, but, the vehicle was not release only for the reason that subsequent thereto the Collector, Gaya, on the recommendation of the Senior Superintendent of Police, Gaya, has initiated confiscation proceeding on 15.12.2016.

The factual position remains that order of the Court has not been complied without any proper justification. The release order was itself subject to the result of any confiscation proceeding in respect of the said vehicle, which was initiated subsequent to the release order, therefore, the release order should have been given effect immediately by the respondents.

In the circumstances, the respondents are directed to release the vehicle in favour of the petitioner within seven days of this order, which has been passed in presence of the parties.

The petitioner is also directed to approach for receiving the vehicle along with a copy of this order. The petitioner is, further, directed not to dispose of the said vehicle or put under any encumbrance to thwart the



pending confiscation proceeding.

Further, proceeding of confiscation case arising out of Muffasil P.S. Case No. 322 of 2016 shall remain stayed in view of the pendency of the consideration as to whether an Executive Authority can exercise the judicial power, confiscate and auction the vehicle, before a larger Bench of this Court in L.P.A. No. 1647 of 2016. Further, this order would be subject to the result of the Letters Patent Appeal, aforesaid.

With the observation, aforesaid, the writ application stands disposed of.

(Birendra Kumar, J)

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