

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35836 of 2017

Arising Out of PS. Case No.-8 Year-2014 Thana- BUNIADGANJ District- Gaya

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Ajay Sao S/o Mahadeo Sao R/o Village Ram Nagar, PO - Jani Bigha, P.S. -
Bodhgaya, District Gaya.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar Gupta, Adv
For the Opposite Party/s : Mr. MD. FAHIMUDDIN, APP

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 31-07-2017

Heard learned counsel for the parties.

The present application under Section 482 of the Cr.P.C has been filed for quashing the order dated 06.01.2017, passed by the S.D.J.M., Gaya in G.R. No. 335 of 2014 (Tr. No. 3589 of 2016) arising out of Buniyadganj P.S. Case No. 08 of 2014, by which the learned court below had rejected the discharge petition of the petitioner filed under Section 239 of the Cr.P.C.

Briefly stated, the facts of the case as stated in the FIR is that on 21.01.2014, the informant along with other police personnel was on night duty. He received secret information that some criminals are going on red colour TATA Magic Van with stolen articles and after receiving the said



information the informant along with other police personnel started checking the vehicles, on seeing the police the driver and other 4 to 5 persons coming on red colour TATA Magic Van started to flee away after leaving the red colour TATA Magic Van and in spite of efforts being made to apprehend them, they flee away and thereafter the said red colour TATA Magic Van alongwith stolen articles and arms kept in the vehicle were seized by the police. There was no registered number of TATA Magic Van, and an FIR against unknown was registered for the offence punishable under Sections 399, 402, 411, 420 and 120(A) of the Indian Penal Code and Section 25(1-B)/26/35 of the Arms Act. Ajay Saw was found to be the owner of the red colour TATA Magic Van which was recovered during raid, and he was made accused in this case, who is the petitioner here.

It has been stated by the petitioner that the alleged red colour TATA Magic Van was purchased by him from TATA Motors in the year 2013, and thereafter by an agreement the vehicle was given to Upendra Sao, who used to drive the vehicle and pay the monthly installment of the vehicle to the finance company. The red colour TATA Magic Van was used by the said Upendra Sao for commercial purpose and the petitioner is not concerned with the said van.

The accused petitioner submitted a discharge



petition under Section 239 of the Cr.P.C that he is innocent and has been falsely implicated in this case. It has been further submitted by him that although he is the owner of the vehicle but by an agreement he had given the said vehicle to one Upendra Sao for its commercial use, as such he may be discharged from the case. Although the petitioner is not named in the FIR but during the course of investigation his complicity in the crime was found and he was made accused. The stolen articles were recovered from the red colour TATA Magic Van of the petitioner Ajay Sao and after investigation it was found to be true against the petitioner and chargesheet under Section 457, 380 and 411 of the Indian Penal Code, was submitted against him and cognizance was taken against the petitioner. The court below after perusing the entire case diary and statement of witnesses, found that the witnesses have supported the case of prosecution and has found that sufficient material is available in the case dairy to proceed further for framing of charge against the accused-petitioner.

After having found that there is sufficient material against the petitioner in the case diary, police paper and other materials available on record, the court below had dismissed the discharge petition filed by the petitioner.



After hearing the parties and going through the order passed by the learned court below, I do not find any error, illegality or infirmity in the same requiring any interference by this Court, as such the present petition filed under Section 482 of the Cr.P.C is, dismissed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	08.08.2017
Transmission Date	08.08.2017

