

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41428 of 2014

Arising Out of PS.Case No. -12 Year- 2012 Thana -SONEPUR District- SARAN

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Ajay Kumar Son of Raghu Bansh Sah Resident of Village+P.O.-Deshri,
P.S.-Deshri, District-Vaishali.

.... Petitioner

Versus

1. The State of Bihar

2. Siyaram Prasad Gupta Son of Jagarnath Prasad Resident of
Mohalla-Mauna Banganj, P.S.-Chhapra Town, District-Saran.

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Aaruni Singh, Advocate

For the Opposite Party : Ms. Pushpa Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 10-10-2017

Heard learned counsel for the petitioner and
learned Additional Public Prosecutor for the State.

The petitioner, in the present case, is seeking
quashing of the order dated 11.03.2014 passed in Criminal
Revision No. 124/2012 by learned Ad hoc Additional Sessions
Judge- V, Saran at Chapra by which the learned Ad hoc
Additional Sessions Judge- V, Saran at Chapra has refused to
set aside the order dated 03.05.2012 passed by learned
Railway Magistrate rejecting the application of the present
petitioner to release the seized articles in his favour.

Learned counsel for the petitioner submits that



both the learned Magistrate as well as the learned Ad hoc Additional Sessions Judge- V, Saran at Chapra have committed an error inasmuch as they failed to appreciate that this petitioner was in possession of sufficient evidence showing that the articles seized were virtually owned by the petitioner and he was the rightful owner.

On the other hand, learned Additional Public Prosecutor representing the State submits that the order passed by the learned Railway Magistrate as well as learned Ad hoc Additional Sessions Judge- V, Saran at Chapra are legal and valid orders in the circumstances existing at the relevant time.

This court has perused the impugned orders, it appears that during the ongoing investigation of the case the informant as well as the present petitioner and one Kali Charan Paswan claimed the ownership of the articles which were seized by police in connection with Sonapur (Hazipur) Rail P.S. Case No. 12/2012 dated 03.05.2012 registered under Section 379 of the Indian Penal Code.

In view of the rival claims and the stage of the case when investigation was still going on, the courts below



rightly passed the order rejecting the application of the present petitioner. There is no infirmity or illegality in the order passed by the courts below.

At this stage, learned counsel for the petitioner submits that now the investigation of the case is over and the case has already proceeded, therefore, on filing of a fresh application, the trial court may consider the same on its own merit. This Court is not inclined to interfere with the impugned orders. However, the petitioner, if so advised, shall be at liberty to file an appropriate application in accordance with law to avail the remedy, if any, at an appropriate stage.

This application is disposed of with the above observation.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
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