

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43165 of 2016

Arising Out of PS.Case No. -256 Year- 2015 Thana -BELDAUR District- KHAGARIA

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Lalan Kumar @ Lalan Prasad Yadav @ Lalan Kumar Yadav son of Umesh Yadav,
resident of village- Sonma Basa, P.S.- Beldaur, District- Khagaria

.... Petitioner/s

Versus

- 1.The State of Bihar
2. The District Magistrate, Khagaria
3. The Block Development Officer-cum-Block Supply Officer, Beldaur, P.S.-
Beldaur, District- Khagaria
4. The Officer-in-Charge of Beldaur Police Station, District- Khagaria

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Viveka Nand Singh, Advocate
For the State : Mr. Pradeep Narain Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 06-09-2017

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 3rd August, 2016 passed by the learned Session Judge, Khagaria in Cr.Revision No.32 of 2016 whereby he has dismissed the revision petition filed by the petitioner against the order dated 10.03.2016 passed by the learned Sub Divisional Judicial Magistrate, Khagaria in G.R. No.2686 of 2015



arising out of Beldaur P.S. Case No.256 of 2015.

2. By order dated 10.03.2016, the learned Sub Divisional Judicial Magistrate, Khagaria had rejected the application of the petitioner for release of pick-up van bearing registration no.BR 10G-9297, which was seized in connection with an offence committed under Section 7 of the Essential Commodities Act, 1955 (for short 'E.C.Act'). It was alleged in the First Information Report that seventy six liquified petroleum gas cylinders, each containing 14.02 Kg. Gas were recovered from the vehicle, in question, and on inquiry, the driver as well as the owner had disclosed before the police that one Mithilesh Sah had loaded the seized gas cylinders on the pick-up van.

3. Learned counsel for the petitioner has submitted that the petitioner is the registered owner of the vehicle. His application for release of the vehicle has been rejected by the learned Magistrate as well as by the revisional court on an erroneous ground that a confiscation case in respect of the vehicle had already been initiated under Section 6-A of the E.C.Act. He has submitted that notwithstanding initiation of the confiscation proceeding, the court below ought to have released the vehicle in favour of the petitioner, as detention of the vehicle would cause loss to the national property and the petitioner being registered owner is the only person entitled to for possession of the same.



4. Per contra, Mr. Pradeep Narain Kumar, learned Additional Public Prosecutor appearing on behalf of the State has submitted that the object of confiscation proceeding is to enable speedy and effective adjudication with regard to confiscation of offending goods and the means used for committing the offence. He has submitted that once a confiscation proceeding is initiated the jurisdiction of the criminal court to deal with the property in terms of Sections 451 and 457 of the CrPC gets ousted. Hence, the courts below have rightly rejected the petition for release of the vehicle.

5. I have heard learned counsel for the parties. I find substance in the submissions made by the learned Additional Public Prosecutor for the State.

6. Section 6-E of the E.C.Act completely bars the jurisdiction of the court to release any property including vehicle seized in connection with an offence committed under the E.C.Act. It reads as under:

“6-E. Bar of jurisdiction in certain cases.— Whenever any essential commodity is seized in pursuance of an order made under section 3 in relation thereto, or any package, covering or receptacle in which such essential commodity is found, or any animal, vehicle, vessel or other conveyance used in carrying such essential commodity is seized pending confiscation under



section 6-A, the Collector, or, as the case may be, the judicial authority appointed under section 6-C shall have, and, notwithstanding anything to the contrary contained in any other law for the time being in force, any other court, tribunal or authority shall not have, jurisdiction to make orders with regard to the possession, delivery, disposal, release or distribution of such essential commodity, package, covering, receptacle, animal, vehicle, vessel or other conveyance.”

7. As there is no dispute to the fact that the vehicle used in carrying essential commodity in pursuance of an order made under Section 3 of the E.C.Act was seized for which a confiscation proceeding under Section 6-A of the E.C.Act has been initiated by the Collector, in the opinion of this Court, no illegality can be found with the order passed by the learned Magistrate whereby the application of the petitioner for release of the vehicle was rejected. Similarly, no error can be found with the order passed by the learned Session Judge whereby the revision petition preferred by the petitioner has been dismissed. It is well settled position in law that once a confiscation proceeding is initiated under section 6-A of the E.C.Act and intimation in this regard is given to the Court of Magistrate, so far as release of any property seized in that case is concerned, the Court of



Magistrate becomes functus officio.

8. In view of the discussions made above, the application,
being meritless, is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N/A
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