

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2682 of 2017

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Ram Kishun Yadav, son of late Nanhak Yadav, R/o – Village Nawadih, P.S.
Mohanpur, District – Gaya. Petitioner

Versus

1. The State of Bihar through its Principal Secretary, Excise Department
Patna
 2. The District Magistrate, Gaya.
 3. The Senior Superintendent of Police, Gaya. Respondents
- =====

Appearance :

For the Petitioner/s : Mr. Kunwar Narayan Jamuar
For the Respondent/s : Mr. Vivek Prasad (GP-7)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

- 5. 19-03-2018** Learned counsel for the State has complied with the order dated 09.03.2018 by filing a detail counter affidavit on behalf of District Magistrate, Gaya.

A perusal of the counter affidavit would show that in fact the vehicle in question was already auction sold in the auction held on 28.12.2017 and an order giving effect to the said auction was issued on 19.01.2018. Learned counsel submits that even before passing of the order dated 30th January, 2018 by this court the vehicle in question was already delivered to the auction purchaser on deposit of the auction amount.

Learned counsel further submits that in fact the statement made by him on 30.01.2018 that the vehicle in question has not been auction sold as yet was not a correct statement and the same seems to have been based on a



wrong instruction.

Be that as it may, it is apparent from the counter affidavit placed before this court that the auction was already held on 28.12.2017 itself and the vehicle in question was one of the vehicles which were put for auction sale. It is also evident from the documents enclosed with the counter affidavit that the auction sale had been given effect to vide order dated 19.01.2018.

I am, therefore, satisfied that the District Magistrate, Gaya had a reason not to comply with the said order dated 30.01.2018, the order dated 30.01.2018 is, therefore, recalled to that extent by which a provisional release of the vehicle was ordered.

Learned counsel at this stage submits that he may be given liberty to challenge the confiscation order dated 01.09.2017 passed in Confiscation Case No. 124/2017 by the District Magistrate cum Collector, Gaya in an appropriate proceeding and in accordance with law.

The writ application stands disposed off in view of the liberty prayed for on behalf of the petitioner. The petitioner may, if so advised, seek his remedy against the order of confiscation in accordance with law, if he applies



for such remedy the same shall be considered on its own merit keeping in view that the petitioner was prosecuting his remedy in good faith before this court in its writ jurisdiction.

The application stands disposed off.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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