

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27168 of 2017

Arising Out of PS.Case No. -468 Year- 2015 Thana -BETTIAH CITY District-
WESTCHAMPARAN(BETTIAH)

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Santu Miyan, Son of Late Sarifan Miyan, Resident of Village- Mahuawa, Police
Station- Chanpatia, District- West Champaran at Bettiah.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Raghunandan Kumar Singh, Advocate.

For the Opposite Party/s : Mr. Tarkeshwar Nath Thakur, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 23-07-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 28.03.2017 passed by the learned Additional District Judge-Vth, West Champaran at Bettiah, in Trial No. 424 of 2016 arising out of Bettiah Town (Kalibag O.P.) P.S. Case No. 468 of 2015 by which the learned Magistrate has rejected the petition of the petitioner for releasing the Motorcycle.

2. Heard learned counsel for the petitioner and learned counsel for the State.

3. From the impugned order it appears that alleged Motorcycle was recovered from the house of petitioner on 21.7.2015. It is specifically alleged in the written report that manipulation was



made on Engine and Chassis numbers of the Motorcycle in question. It is further alleged that petitioner did not produce any papers at the time of seizure of the Motorcycle. It is further alleged that different Engine numbers and Chassis numbers were punched on the aforesaid Motorcycle. The petitioner has produced R.C. Book issued on 22.8.2016 after one year of recovery of the Motorcycle by the police. From R.C. Book it appeared to the court below that originally the registration of vehicle was recorded in the name of Kedar Prasad of Ujjain Tola, Bettiah. The petitioner has claimed himself to be the owner of the aforesaid motorcycle. He sought the said Motorcycle to be released on the basis of aforesaid R.C. Book. The court below has rejected the claim of the petitioner on the ground that R.C. Book was not original rather Duplicate. The duplicate R.C. Book has been issued on 22.8.2016, after one year of seizure. It shows transfer in favour of petitioner vide D.T.O. Stamp dated 19.11.2016 without mentioning any details of Transfer and its Date.

4. The Trial Court was not satisfied with the genuineness of the aforesaid document which is mentioned in the impugned order. The Trial Court has also mentioned that no paper had been produced by the petitioner showing purchase of the aforesaid Motorcycle from the owner Kedar Prasad. The Trial Court has rejected prayer for release of Motorcycle in favour of petitioner on



aforesaid ground.

5. Learned counsel for the petitioner has submitted that he is ready to give proper Indemnity Bond as required under Sections 451 and 452 Cr. P.C.

6. This Court after looking into the First Information Report finds that seized Motorcycle is material exhibit of the case. The case filed against the petitioner is based on recovery of aforesaid Motorcycle which is alleged to be stolen one. From the impugned order it appears that on the date of recovery of the Motorcycle from the house of petitioner, no papers relating to the aforesaid Motorcycle was produced by the petitioner before the police on demand. The R.C. Book dated 22.8.2016 was produced during hearing of petition for release of Motorcycle in the court below which was not found genuine by the court below for the reason mentioned in the impugned order.

7. Therefore, this Court does not find any illegality in the impugned order.

8. This Criminal Miscellaneous application is accordingly dismissed.

9. The court below will expedite the trial of the accused (petitioner) and make efforts to conclude the same expeditiously preferably within a period of six months from the date of receipt of this order. The petitioner will be at liberty to file



appropriate petition in terms of Provision under Section 452 Cr. P.C.
after conclusion of the trial which will be considered by the court
below in accordance with law.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	25/07/2018
Transmission Date	25 07/2018

