

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.709 of 2018

Arising Out of PS.Case No. - 293 Year- 2017 Thana - Manjhagarh District- GOPALGANJ

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Perwez Alam S/o Imamul Haque, R/o Village- Dharmparsa, P.S.- Manjhagarh,
District- Gopalganj.

.... Petitioner

Versus

1. The State of Bihar through the Director General cum Inspector General of Police, Patna.
2. The Superintendent of Police, Patna.
3. The Dy. S.P., Gopalganj.
4. The Officer-in-Charge Manjhargarh P.S. Gopalganj.

.... Respondents

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Appearance:

For the Petitioner/s : Mr. Md. Sufyan, Advocate.

For the Respondent/s : Mr. P.K. Verma, AAG 3.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 09-05-2018

Pursuant to the last order dated 04.05.2018 the Officer-in-charge, Manjhagarh Police Station, Gopalganj as also the Superintendent of Police, Gopalganj are present in Court.

2. Mr. P.K. Verma, learned A.A.G. 3 while representing them has placed before this Court a Counter Affidavit filed on behalf of the respondent no. 2 which has been sworn by the Deputy Superintendent of Police (HQ), Gopalganj. It is stated that so far as the Scorpio vehicle bearing Registration no. BR 28G-7557 is concerned it has not been seized in connection with Manjhagarh P.S. Case No. 293/17 and in fact, as per the Station Diary of Manjhagarh Police Station, the said vehicle was found in an abandoned condition by the Sub Inspector Vishwanath Prasad Rai on 26.12.2017 and was



brought to the premises of the Police Station for keeping the vehicle safe in the custody of the police. It is submitted that nobody came looking for release of the vehicle and, therefore, the vehicle has remained lying there all through these periods.

3. Learned counsel representing the petitioner has strongly contested the submissions made on behalf of the respondent no. 2. It is submitted that the vehicle in question has been shown lying in an abandoned condition in the village to which this petitioner belongs to. According to the learned counsel, it cannot be believed that a vehicle may be said to be lying in an abandoned condition in the village where the owner of the vehicle resides. Submission is that this is a kind of misleading plea which is being taken before this Court just to save the skin of the police officers who have been involved behind retaining the vehicle in question illegally, without reporting the seizure to the learned Judicial Magistrate within whose jurisdiction the vehicle was seized or found.

4. The Superintendent of Police, Gopalganj has informed this Court that in fact he has joined his office very recently and for that reason on earlier occasion no instruction could be sent to the learned counsel representing the State in this case for which he sought apology from this Court. He has further stated that the departmental proceedings have been initiated against the then S.H.O. Rajroop Rai



on the charge of not acting as per the rules and the departmental proceedings would be pursued with all sincerity and with an intention to make it final within a reasonable period.

5. Having heard learned counsel for the petitioner, learned A.A.G. 3 representing the State and the Superintendent of Police, Gopalganj, this Court would notice that the kind of submission made on behalf of the respondent no. 2 in his Counter Affidavit seems to be highly improbable and *prima facie* not acceptable to this Court. It cannot be believed that a vehicle of which the owner is residing in the same village where it is standing may be said to have been abandoned and the police will take over the vehicle showing it in the abandoned condition. This aspect of the matter will, however, be required to be examined by the Superintendent of Police, Gopalganj to ensure that whether or not it is a case of highhandedness of the police by misusing its power.

6. Since the Scorpio in question has not been seized in connection with any case, this Court would direct release of the vehicle Scorpio forthwith in favour of the petitioner on his showing documents of ownership and registration in his favour to the Officer-in-charge, Manjhagarh Police Station.

7. The departmental proceeding which has been initiated must be concluded within a reasonable period and this Court would



like that it is desirable to be decided by the Superintendent of Police, Gopalganj taking a reasonable view of the entire matter.

8. The Writ Application stands disposed of accordingly.

9. Personal appearance of the officers present in the Court is hereby dispensed with.

10. At this stage, learned counsel for the petitioner submits that his vehicle has been detained unlawfully and unauthorizedly for a period of about five months in police custody, for which he would be entitled for some compensation.

11. This Court would not accept this request of the petitioner at this stage because the enquiry, which has been or is to be taken up by the Superintendent of Police, Gopalganj, is yet to be concluded. Once the enquiry is concluded by the Superintendent of Police, Gopalganj and if it is found that the vehicle of the petitioner has been detained illegally or unlawfully by the police officers, the petitioner will have a remedy open to him.

12. For this reason a copy of the enquiry report and the decision taken by the Superintendent of Police, Gopalganj, after such enquiry, be made available to the petitioner as well.

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CA V DATE	N/A
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