

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.55449 of 2016

Arising Out of PS. Case No.-154 Year-2013 Thana- TEGHRA District- Begusarai

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Bharat Chaurasia, son of Dr. Suresh Chaurasia @ Suresh Mahto, resident of
Village- Pakhtaul, P.S.- T eghra, District- Begusarai

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Inspector of police Sri Ravi Shankar Prasad, Teghra police station District Begusarai.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Gautam Kumar Kejriwal
For the Opposite Party/s : Mr. Smt. Sucheta Yadav

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 26-06-2018 Heard the learned counsel for the parties.

The prayer of the petitioner for being discharged of the offences under Sections 413, 414 and 34 of the I.P.C. has been rejected by the learned Magistrate and the aforesaid order has been affirmed and upheld by the learned District and Sessions Judge, Begusarai in Criminal Revision No. 228 of 2016. Both the aforesaid orders are under challenge.

It appears that on the secret information received by the informant that a stolen motorcycle is kept in the refreshment shop of Vinod Sahni and Kari Sahni, a raid was conducted. A motorcycle was found at the said shop. No document with respect to the aforesaid motorcycle could be produced by the aforesaid two



persons. The aforesaid two persons however stated that they had purchased the motorcycle in question from the petitioner. On the basis of aforesaid disclosure, the petitioner along with others was made accused in Teghara P.S. Case No. 154 of 2013 dated 13.08.2013 for the offences under Sections 413, 414 and 34 of the I.P.C.

From the investigation reports, it could not be ascertained that the vehicle in question was sold by the petitioner to Vinod Sahni and Kari Sahni.

Learned counsel for the petitioner has submitted that both the courts below did not at all advert to the fact that there was no recovery from the possession of the petitioner and merely on the allegation that the aforesaid vehicle was purchased from him, he has been made accused and is about to be tried for the offence.

For the offences under Section 413 and 414 of the I.P.C. to be brought home, it has to be established in first instance, even *prima facie*, that the vehicle is a stolen property. That apart, there is no document on record which would prove the fact that the aforesaid vehicle was sold by the petitioner to the other two accused persons viz. Vinod Sahni and Kari Sahni. During the investigation, it has been argued, no material even



prima facie, could be collected which would indicate that the vehicle in question was owned by the petitioner and was sold by him to the two other accused persons. In the absence of any material indicating that the vehicle which was sold by the petitioner to the two other accused persons to be stolen property and no evidence with respect to sale and purchase of the aforesaid property, the petitioner cannot be made to face trial in the case.

Considering the aforesaid facts, the order dated 23.04.2016 passed by the learned Assistant Sessions Judge II, Begusarai in Sessions Trial No. 573 of 2014 as well as the revisional order passed by the learned District and Sessions Judge, Begusarai dated 29.08.2016 in Cr. Revision No. 228 of 2016 are set aside.

The petitioner is discharged of the offence.

The application stands allowed.

(Ashutosh Kumar, J)

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