

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.515 of 2018

Arising Out of PS. Case No.-165 Year-2017 Thana- SARSI District- Purnia

Hare Ram Singh Son of Bachcha Singh Resident of Village Madhavpur P.S.
Sisawan, District Siwan.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ram Prawesh Kumar
For the Respondent/s : Mr. Sanjay Kumar Tiwary 1

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 22-06-2018 A vehicle bearing Registration No. WB 23/C-1914, a truck, was seized in connection with Sarsi P.S. Case No. 165 of 2017 instituted for the offences under Sections 363, 379, 420 and 120B of the Indian Penal Code.

The F.I.R. referred to above was lodged by the owner of the Truck for the vehicle having gone missing along with the contents viz. a container which contained Black Pepper which was purchased from Vietnam and had to be delivered to the consignee. However, surprisingly the petition for release of the aforesaid truck was not made by the informant/owner of the Truck but by the present petitioner, who is the power of attorney holder on behalf of the owner of the Truck.

The reason assigned by the learned counsel for



the petitioner for the owner/informant of the case not coming out in open is that he has entrusted all such work to the petitioner as his power of attorney holder.

While the petition for release was being adjudicated by the learned Magistrate, an objection petition was filed on behalf of the consignee of the Black Pepper which was being transported by the aforesaid Truck, stating that deliberately and maliciously, the entire contents of the container viz. Black Pepper which is an expensive commodity and which has been purchased in the international market, has been misappropriated by the driver and the cleaner of the Truck and perhaps the owner is also in cahoots with them in causing disappearance of the contents of the container. Apart from this, the learned Magistrate also received a report from the intelligence agency that the issue might relate to irregularities in international trade.

Considering the aforesaid aspects, the learned Magistrate did not deem it fit to release the vehicle in favour of the petitioner, the power of attorney holder.

Learned counsel for the petitioner submits that the learned Judicial Magistrate completely misdirected himself in not enquiring about the genuineness of the documents offered on behalf of the petitioner/power of attorney holder to show that the vehicle belonged to the



owner. It has been submitted that it was also agitated before the court below that the petitioner or the owner would have no objection if the container which also has been seized along with the truck be released to its owner. So far as the contents are concerned, it would only be a matter of investigation/enquiry as to how the contents have been caused to disappear or has been misappropriated.

In any view of the matter, there would be no benefit to anyone of the parties if the vehicle is kept in the police station without any use. It would only be subject to the vagaries of nature which would ultimately make it unfit for use.

The impugned order reflects that because the contents of the container which was loaded on the truck was found missing, the learned Magistrate did not at all advert to the facts relating to the ownership of the vehicle.

As such, the order dated 17.03.2018 is set aside.

The matter is remanded to the learned Magistrate again for giving a fresh hearing to the parties and decide as to whether the vehicle belongs to the owner, of whom the petitioner is the power of attorney holder. In case it is found that the person who has



executed the power of attorney in favour of the petitioner is the real owner of the vehicle in question, the court may consider releasing the same in favour of the petitioner/power of attorney holder, but only subject to his satisfaction and condition which the learned Magistrate may deem fit in the facts of this case. If at all, the vehicle is directed to be released by the learned Magistrate, necessary surety may be asked for from the petitioner and an undertaking be also obtained that under no circumstances, would the vehicle be disposed off till the disposal of the case and that it shall be brought to the court as and when required in the decision of the case.

It is also made clear that the learned court below shall apply its mind and would pass order only on his satisfaction, without being influenced by the fact that the present petition has been entertained.

With the aforesaid observation the revision petition is disposed of.

(Ashutosh Kumar, J)

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