

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.22581 of 2017

Arising Out of PS.Case No. -357 Year- 2014 Thana -MITHANPURA District- MUZAFFARPUR

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Subodh Kumar Singh, S/o Shri Satyanarayan Singh at Rambagh New Shastrinagar,
P.O.- Ramna, P.S.- Mithanpura Dist.- Muzaaffarpur.

.... Petitioner

Versus

1. The State of Bihar.
2. Amit Anand, S/o Late Suresh Prasad Singh, Village- Patedini, P.S.- Balesar,
Dist.- Vaishali.

.... Opposite Parties.

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar, Advocate.
Mr. Prashant Kumar Singh, Advocate
For the State : Mr. Umesh Nand Pandit, APP
For O.P. No. 2 : Mr. Anil Kumar Sing, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 30-01-2018

This application under Section 482 of the Code of Criminal Procedure has been filed by the petitioner for quashing the order dated 02.11.2016 passed by the learned Sub-division Judicial Magistrate, Muzaffarpur, East in Mithanpur P. S. Case No. 357 of 2014 by which he has refused to release Tata Bus bearing Registration No. BR-06-PA-3877 in favour of the petitioner.

2. On perusal of the impugned order, I find that two



petitions were filed before the learned Sub-Divisional Judicial Magistrate for release of the aforestated vehicle, one by the petitioner and other by one Amit Anand, son of late Suresh Prasad Singh. The contention of the petitioner was that the registered owner Amit Anand had sold the vehicle to the petitioner, but the same could not be transferred due to non-payment of dues to the financier, as the vehicle was purchased under hire-purchase agreement whereas the claim of opposite party no. 2 Amit Anand was that he had never sold the vehicle in favour of the petitioner and he being the registered owner is entitled for release of the vehicle in his favour. Thus, apparently, there was dispute of ownership between the petitioner and opposite party no. 2 herein.

3. I am surprised that though both the petitioner and opposite party no. 2 pressed their respective petitions, the learned Sub-Divisional Judicial Magistrate neither allowed nor rejected their prayer and disposed of their application by passing an innocuous order. Once a dispute is raised before a court, it is the duty of the presiding officer to decide the dispute.

4. In my opinion, the learned Sub-Divisional Judicial Magistrate has completely erred in law in disposing of the petitions without deciding the same.

5. In that view of the matter, the order impugned dated



02.11.2016 passed by the learned Sub-Divisional Judicial Magistrate, Muzaffarpur East in Mithanpur P. S. Case No. 357 of 2014 is set aside. The matter is remitted back to hear the parties afresh and dispose of their respective petitions on merit as early as possible, preferably within one month from the date of receipt/production of a copy of the order.

6. It is made clear that this Court has not decided the issue on merit. It would be open to the Sub-Divisional Judicial Magistrate to form his own view on the petitions for release of the vehicle in question in accordance with law and release the same either in favour of the petitioner or in favour of the opposite party no. 2 or he may reject both the petitions.

7. With the aforesaid observation and direction, this application is disposed of.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.02.2018
Transmission Date	01.02.2018

