

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14727 of 2018

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1. Ashok Kumar @ Ashok Ray S/o Ramodar Ram @ Ramodar Ray @ Ramudar Ray, resident of Village- Ram Patti, Harkhauli, P.S.- Gaighat, District- Muzaffarpur.
 2. Rajesh Ray S/o Bajnath Ray @ Late Baidh Nath Ray, resident of Village- Adigopalpur, P.S. Bochaha District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through, Principal Secretary, Excise Department, Govt. of Bihar, Patna.
2. The Collector cum District Magistrate, Darbhanga.
3. The Senior Superintendent of Police, Darbhanga.
4. The Station House Officer P.S.- Simri District- Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Kedar Jha

For the Respondent/s : Mr. Anil Kumar Sinha -Ga1

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

2 19-12-2018 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner in the present writ application is challenging the order dated 16.03.2018 passed by the District Collector, Darbhanga in Excise Confiscation Case No. 195 of 2017 arising out of Simri P. S. Case No. 100 of 2017 whereby and whereunder the vehicle (New Splendor Pro Motorcycle) bearing Registration No. BR06AX-7556 has been confiscated.

Learned counsel for the petitioner submits that the impugned order is liable to be quashed on a solitary ground that in



terms of Section 56 of the Bihar Prohibition & Excise Act, 2016, if there was no recovery of illicit liquor from the vehicle in question, it was not liable to be confiscated. He relied upon the judgment of the Hon'ble Division bench of this Court passed in the case of **Diwakar Kumar Singh Vs. The State of Bihar through the Principal Secretary, Excise Department & Ors.** reported in **2018 (3) PLJR 403.**

Learned counsel for the State is present and accepts the factual position to the extent that there was no recovery of illicit liquor from the vehicle in question.

This being the position, this Court would have no hesitation in quashing the impugned order following the judgment of the Hon'ble Division Bench passed in the case of **Diwakar Kumar Singh** (Supra). Accordingly, the order dated 16.03.2018 impugned in the present writ application is quashed.

The District Magistrate, Darbhanga is directed to release the vehicle in question forth with in favour of the petitioner on furnishing the document of ownership and registration in his favour.

This application stands allowed.

(Jyoti Saran, J)

(Rajeev Ranjan Prasad, J)

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