

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40735 of 2019

Arising Out of PS. Case No.-8 Year-2014 Thana- BUNIYAD GANJ District- Gaya

Ajay Sao, aged about 33 years (M), S/o Mahadeo Sao @ Mahadev Saw, R/o village- Ram Nagar, P.O.- Jani Bigha, P.S.- Bodhgaya, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Vinod Kumar, aged about 46 years (M), Officer-in-charge, Buniyadganj, District- Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Deepak Kumar, Adv.

For the Opposite Party/s : Mr. Zainul Abedin, APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 16-07-2019 The petitioner seeks quashing of the order dated 12.03.2019 passed by the learned 7th Addl. Sessions Judge, Gaya in connection with Sessions Trial No. 222 of 2019/484 of 2016, whereby the petition for discharge preferred by him has been rejected.

2. It appears that the petitioner was made accused in connection with Buniyadganj P.S. Case No. 8 of 2014 dated 22.01.2014, which was instituted for the offences under Sections 399, 402, 411, 420 and 120(B) of the Indian Penal Code and Sections 25(1-B)A, 26 and 35 of the



Arms Act.

3. The vehicle on which the computer peripherals were loaded and which articles were found to be stolen were initially purchased by the petitioner on hire-purchase agreement, but, later, it was transferred by way of agreement to one Upendra Sao, who is a person of the neighboring village. An *Ekrarnama* (agreement) was entered into between the petitioner and the aforesaid Upendra Sao on 04.10.2013 in which it has clearly been stated that anything happening after the aforesaid date of agreement, only Upendra Sao shall be responsible for the same.

4. The aforesaid aspect of the matter was investigated as well, but the same has not been adverted to by the learned Court below while dealing with the discharge petition. The order impugned does not state whether there is any other evidence to come to the conclusion that the petitioner also had participated in the theft or was in know of the fact that such stolen articles were being transported on a vehicle which was originally purchased by him, but, later, transferred by way of agreement to another co-accused.



5. These aspects ought to have been gone into by the learned Court below before rejecting the petition for discharge.

6. The order, therefore, is not a speaking order.

7. The order impugned in the present petition dated 12.03.2019 is, therefore, set-aside.

8. The matter is remitted to the learned Trial Court for writing out a fresh order in accordance with law within a period of three weeks of the receipt/production of a copy of this order.

9. The aforesaid order has been passed on the submission made on behalf of the petitioner that after the impugned order was passed, neither the charges have been framed nor the case has proceeded any further.

10. The petition stands allowed to the extent indicated above.

(Ashutosh Kumar, J)

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