

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18075 of 2016

Arising Out of PS. Case No.-277 Year-2013 Thana- HAJIPUR SADAR District- Vaishali

Amir Lal Roy son of Late Eqbal Roy, Resident of Village- Kashipur
Chakbibi, P.O.- Bidupur, P.S.- Rajapakar, District- Vaishali.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Sudama Singh son of Late Deolal Singh resident of Village- Khilbat, P.S.-
Bidupur, District- Vaishali.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Adv
	:	Mr.Nilesh Kumar, Adv
	:	Ms. Swati Sinha, Adv
	:	Mr. Arya Achint, Adv
For the State	:	Mr.Shyam Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 17-07-2019

Heard learned counsel for the petitioner and opposite
party No.2.

2. The background of this case is that Deepak Kumar Son of petitioner-Amir Lal Rai lodged Hajipur Sadar P.S.Case No.277 of 2013 relating to alleged occurrence of criminal misappropriation and cheating in respect of the truck bearing Registration No.WB53A-5586 corresponding to Chassis No.426031ARZ202268 purchased by the petitioner. After purchase of the truck, the petitioner had given the same to opposite party No.2, who is non-else than the brother-in-law of the petitioner. When opposite party No.2-Sudama Singh was not properly giving



account of the income of the truck which was already under loan of the financier, the petitioner asked to opposite party No.2 to return back the truck. Thereafter, it was reported that the truck was missing. On 19.06.2013, the truck was found lying near Bidupur market. Rajiv Kumar and Manoj Kumar were apprehended by the people on alarm near the truck and the Registration No. of the truck was found changed as JH12B-8216.

3. Thereafter, the informant as well as opposite party No.2 filed a petition for release of the said truck in their respective favour which was turned down by the learned court below on 16.12.2014. The said order was challenged by the informant in Cr. Misc. No.1382 of 2015 and this Court directed that the vehicle be released in favour of the real owner. Thereafter this petitioner claiming to be the real owner filed a petition for release of the truck and opposite party No.2 resisted the claim of the petitioner thereat. In the meantime, forensic report was received wherein it was informed that Chassis No. of the truck was erased and the referred number was placed at the position which forensic laboratory removed and read the correct Chassis No. available on the body of the truck. Thereafter, opposite party No.2 filed a petition for permission to prosecute the informant of this case and this petitioner alongwith the Director of Forensic Science



Laboratory for presenting a fictitious and forged report regarding Chassis No. of the truck.

4. Considering the aforesaid facts and circumstances by the impugned order dated 22.01.2016 passed in Hajipur Sadar P.S.Case No.277 of 2013, the learned C.J.M., Vaishali at Hajipur refused to release the truck in favour of any of the parties till adjudication of the disputes.

5. So far claim of opposite party No.2 is concerned, the report at Annexure-8 would reveal that Truck No.JH12B-8216 was registered in the name of Santosh Kumar Son of Sri Uday Pratap Singh of Kodarma. It was reported that the said truck was provisionally transferred in the name of opposite party no.2 on 26.06.2013. The verification of the said report is still pending even after lapse of about five years.

6. Learned counsel for the opposite party No.2 submits that the report of the Forensic Science Laboratory has been challenged by opposite party No.2 as collusive one, therefore, on the basis of that report the vehicle should not be released in favour of the petitioner for the apparent reason that the report is itself under challenge. He further submits that once the chargesheet was submitted in the case, the police had no power to call for any report from the F.S.L. and in the present case power



was exercised by a police officer who was not I.O. of the case after completion of investigation. Thus forensic report was without jurisdiction and uncalled for.

7. Sub-section 8 of Section 173 Cr.P.C. gives ample power to the Officer-in-charge of a police station, who may not be Investigating Officer of the particular case that even after submission of the chargesheet he can collect further evidence in the matter. Therefore, calling for a report from forensic science laboratory a police officer other than the Investigating Officer cannot be said to be without jurisdiction and against the law. So far challenge to the forensic science laboratory report is concerned, the matter is sub judice and prima facie report may be accepted for interim arrangement of the truck, especially in absence of any acceptable contrary material.

8. Since no purpose is going to be served by continued detention of the truck in police lock-up rather it is going to get corroded and damaged and must have sustained damage during the intervening period of detention as well as considering the fact that the Forensic Science Laboratory has found correct Chassis No. which is of the truck of the petitioner, let the truck in question be provisionally released in favour of the petitioner on execution of surety bond of Rs. Ten Lacs.



9. It is made clear that if after adjudication of the pending issue it is established that the truck was of opposite party No.2, the petitioner would be liable to reimburse the actual cost of the truck on the date of taking the possession. The petitioner shall ensure a valuation report of the truck by a Govt. Motor Vehicle Inspector.

10. Accordingly, the impugned order is set aside and this application stands allowed.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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