

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2668 of 2018

In

Civil Writ Jurisdiction Case No.9226 of 2017

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Rajesh Sah Son of Late Raja Sah, Resident of Village- Pakdi Visauli, Post Office- Amolwa, Police Station- Gaunaha, District- West Champaran at Bettiah.

... .. Petitioner

Versus

1. The State Of Bihar Through Mr. Amir Subhani, Principal Secretary, Registration, Excise And Prohibition Department, Govt. of Bihar, Patna
2. Dr. Nilesh Deore, District Magistrate-cum- Confiscation officer, West Champaran at Bettiah.
3. Mr. Arun Kumar, Superintendent of Excise, West Champaran at Bettiah.
4. Mr. Ram Ayodhya Paswan, Station House Officer, Gaunaha, District- West Champaran at Bettiah.

... .. Opposite Parties

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Appearance :

For the Petitioner/s : None.

For the Opposite Party/s : Mr.Anil Kumar Sinha - GA1

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)

Date : 08-01-2020

No one appears for the petitioner.

2. Perused the application filed under Article 215 of the Constitution of India read with Section 12 of the Contempt of Courts Act, 1971.

3. The petitioner has filed the present application for initiation of a contempt proceeding against the opposite party no.2 for not complying the order passed by a Division Bench of this Court on 07.07.2017 in CWJC No. 9226 of 2017.



4. On perusal of the application, we find that the aforesaid writ petition was filed by the petitioner for release of his motorcycle bearing registration no. BR-22X-3700 which was seized for violation of the provisions of the Bihar Prohibition and Excise Act, 2016.

5. On 07.07.2017, in the said writ petition this Court directed as under :-

“In the meanwhile, keeping in view the interim order passed in Letters Patent Appeal No.1647 of 2015 on 19.09.2016 and the question as to whether the Collector can pass an order of confiscation which is pending consideration before the Division Bench of this Court, we allow the interim prayer and direct for release of the vehicle in question, namely Hero Honda I-smart Motorcycle bearing Registration No. BR-22X-3700, on the petitioner submitting adequate sureties to the satisfaction of the Collector-cum District Magistrate, West Champaran at Bettiah and further undertaking not to alienate the vehicle or deal with it adverse to the interest to the State, keeping it present and produce it before the Collector-cum-District Magistrate, West Champaran at Bettiah as and when directed.”

6. The petitioner filed an application before the District Magistrate, West Champaran, Bettiah along with a copy of the order dated 07.07.2017 passed in CWJC No. 9226 of 2017 with a



request to release his seized motorcycle as per direction of this Court.

7. The District Magistrate, West Champaran, Bettiah vide order dated 09.08.2017 directed the petitioner to furnish bond of Rs. 53,000/- with three sureties of the like amount and the sureties shall be government employees and their character certificates shall be issued by the Superintendent of Police as condition for release of his motorcycle.

8. Since the petitioner did not comply the aforesaid order dated 09.08.2017, the motorcycle in question has not been released till date.

9. The contention of the petitioner is that the condition imposed by the District Magistrate is onerous one. Hence, it is a case of non-compliance of the order dated 07.07.2017 passed by this Court in CWJC No. 9226 of 2017.

10. We are of the opinion that in case the condition imposed by the District Magistrate for release of the vehicle was onerous one, the petitioner ought to have approached this Court for modification of the order, but the same, by no stretch of imagination, can be treated to be a violation of the order passed by this Court. As a matter of fact, this Court had directed for release of the motorcycle vide aforesaid order dated 07.07.2017 on



submitting adequate sureties to the satisfaction of the District Magistrate.

11. Admittedly, the petitioner had not furnished the sureties as directed by the District Magistrate.

12. Under the facts and circumstances of the case, we are of the opinion that no case for initiation of contempt is made out.

13. The application is devoid of any merit.

14. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

(Partha Sarthy, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	10-01-2020
Transmission Date	

