

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Judicial Jurisdiction Case No.733 of 2021

Prabhu Dayal (Male), aged about 51 years, son of Shri Bansi Lal, resident of Purwa Jagir, Jagahnoo Udampur, Jaganoo, Jammu & Kashmir, PIN Code: 182124, Special Power of Attorney holder in respect of vehicle of Mohd Iqbal @ Mohd Iqbal Chowdhary, son of Ch. Gulam Rasool, resident of Plot No. 2, Ambedkar Chowk, Railway Station, Jammu & Kashmir- 18001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food & Civil Supplies Department, Government of Bihar, Patna; namely Vinay Kumar.
2. Alok Ranjan Ghosh, District Magistrate, Khagaria.
3. Madan Mohan, Block Supply Officer, Sadar, Khagaria, District Khagaria.
4. Ankita Jaiswal, Sub Divisional Magistrate, Khagaria.

... .. Respondent/s

Appearance :

For the Petitioner/s : Ajay Prasad Singh, Adv.

For the Respondent/s : Mr. Upendra Pratap Singh, AC to SC-4

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

7 30-06-2021

The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.



The present petition has been filed for disobedience of the order of this Court dated 06.03.2020 passed in CWJC No. 4774 of 2020 whereby and whereunder though, the learned Sub-Divisional Judicial Magistrate, Khagaria was directed to pass appropriate order upon the petition to be filed by the petitioner under Section 451 Cr. P.C. for release of the vehicle in question, within a period of six weeks of filing of such application, but the learned Sub-Divisional Judicial Magistrate, Khagaria has failed to do so.

This Court had called for a report from the learned Sub-Divisional Judicial Magistrate, Khagaria and the learned Sub-Divisional Judicial Magistrate, Khagaria, vide letter dated 30.06.2021 has submitted that the petitioner has filed a petition for release of the truck/ vehicle in question belatedly only on 02.03.2021 and on the same day, a report was called for from the District Magistrate, Khagaria, whereafter the report was received from the office of the District Magistrate, Khagaria on 27.3.2021. The learned Sub-Divisional Judicial Magistrate, Khagaria has further submitted that since no one has turned up on behalf of the petitioner for pressing the release petition, appropriate orders could not be passed.

Per contra, the learned counsel for the State, Shri Uprendra Pratap Singh, AC to SC-4, has submitted that it is for the learned Sub-Divisional Judicial Magistrate, Khagaria to pass appropriate order as per the direction of this Court, contained in its Order dated



06.03.2020.

I have heard the learned counsel for the parties and I find that even if the petitioner had filed a petition for release of the truck in question on 02.03.2021, it was incumbent upon the Ld. Sub-Divisional Judicial Magistrate, Khagaria to have disposed of the same in accordance with law within a period of six weeks', de hors the fact as to whether anyone was turning up or not on behalf of the petitioner for pressing the release petition. Nonetheless, this Court deems it fit and proper to dispose of the present petition with a warning to the Ld. Sub-Divisional Judicial Magistrate, Khagaria to be careful in future as far as compliance of the Orders of the Hon'ble Patna High Court is concerned and further with a direction to the learned Sub-Divisional Judicial Magistrate, Khagaria to finally dispose of the petition filed by the petitioner on 02.03.2021, under Section 451 Cr. P.C., for release of the vehicle in question, within a period of four weeks from today.

It is needless to state that the petitioner/ his duly appointed counsel shall appear before the learned Court of Sub-Divisional Judicial Magistrate, Khagaria on 8th of July, 2021 at 10:30 A.M. positively, failing which the learned Sub-Divisional Judicial Magistrate, Khagaria shall be at liberty to proceed with the matter ex parte and pass appropriate orders.

Let a copy



transmitted forthwith to the learned

court of Sub-Divisional Judicial Magistrate, Khagaria by email/
special messenger.

With the aforesaid observations and directions, the present
petition stands disposed of.

(Mohit Kumar Shah, J)

Tiwary/-

