

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62956 of 2019**

Arising Out of PS. Case No.-273 Year-2018 Thana- KATIHAR MUFFASIL District- Katihar

Md. Irshad @ Irshad, Son of Late Noor Islam (Male) aged about 49 years,
Resident of Village Baida Amdabad, Roshna, P.S. Amdabad, District Katihar.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Raghvendra Kumar Singh

For the Opposite Party/s : Mr.Raj Kishore Singh

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER**

2 29-01-2021 Heard both sides.

The petition is under Section 482 of the Code of Criminal Procedure for quashing the order dated 21.02.2019, passed by the learned Judicial Magistrate, Ist Class, Katihar in G.R. Case No.5543 of 2018, by which the petition of the petitioner for release of Truck No. BR-39GA/0118 has been rejected and the order dated 13.06.2019, passed by the learned Additional Sessions Judge, I, Katihar in Criminal Revision No.14 of 2019, by which the learned Additional Sessions Judge confirmed the order dated 21.02.2019 of the learned Judicial Magistrate and refused to release the vehicle of the petitioner.

The facts in brief are that one social worker Pawan Kumar lodged the FIR alleging therein that he found two trucks parked and both the trucks were loaded with animals. The FIR



was registered under Sections 414 and 34 of the Indian Penal Code, Section 11(A) (D) of the Animal Cruelty Act, Sections 3, 4, 4(A) and 4(B) of the Bihar Animal Preservation Act and under Sections 47, 56(A), 96, 97 and 98 of the Animal Transport Act, 2009.

The petitioner filed a petition for release of the vehicle under Section 451 of the Code of Criminal Procedure but the learned Judicial Magistrate dismissed the petition for release of the vehicle vide order dated 21.02.2019 simply on the grounds that the petitioner was found carrying the vehicle with loaded animals in violation of the aforesaid Acts and different provisions of the Central Motor Vehicles Rules, 2015. The petitioner preferred revision and the same was also rejected on the same grounds.

Learned counsel for the petitioner submits that the petitioner has got valid permit and there is no violation of any Rules. 21 cattle were purchased from Kharia Hat and the cattle were being transported. It is further submitted that at the time of seizure of the vehicle, none of the cattle was found injured. The vehicle is lying in the premises of the police station. The vehicle is rusting and decaying by each and every day and no useful purpose will be served for keeping the vehicle inside the



premises of the police station, therefore, the learned Judicial Magistrate as well as the learned Additional Sessions Judge has committed gross illegality in rejecting the petition of the petitioner for release of the vehicle.

The learned Additional P.P. has very fairly submitted that no useful purpose will be served for keeping the vehicle in the premises of the police station.

Having considered the submissions of both sides and on perusal of the orders, I find that the truck bearing No. BR-39GA/0118 was seized for carrying 21 numbers of cattle. The trial is still going on. The truck is lying uncared in the premises of the police station, therefore, I find that the learned Judicial Magistrate as well as the learned Additional Sessions Judge has committed gross illegality in rejecting the prayer for release of the vehicle.

Accordingly, the order dated 21.02.2019, passed by the learned Judicial Magistrate, Ist Class, Katihar in G.R. Case No.5543 of 2018 and the order dated 13.06.2019, passed by the learned Additional Sessions Judge, I, Katihar in Criminal Revision No.14 of 2019 are set aside.

The petition is allowed.

The truck bearing No. BR-39GA/0118 is ordered to



be released in favour of the petitioner on furnishing indemnity bond of Rs.10,00,000/- (ten lacs) with undertaking to produce the vehicle as and when required by the court.

(Prabhat Kumar Jha, J)

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