

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.199 of 2020

Arising Out of PS. Case No.-186 Year-2017 Thana- BODHGAYA District- Gaya

Binda Singh, Son of Babulal Singh Resident of Village - Dhibar, P.S.- Fateh-
pur, District - Gaya, At Present resident at Bihari Pada Amarsa Sota, District -
Bardhman (West Bengal).

... .. Petitioner

Versus

1. The State of Bihar through the District Magistrate, Gaya.
2. The Senior Superintendent of Police, Gaya.
3. The Sub Divisional Police Officer, Gaya.
4. The Officer In Charge Of Bodh Gaya, District- Gaya.
5. Ravindra Kumar Singh, S/o Chandradeo Singh ,Resident of Village - Urail,
P.S. - Bodh Gaya, District - Gaya.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Gyan Shankar, Adv.
For the State	:	Mr.N.H. Khan, SC-1
For the Respondent No.5:	:	Mr. Vinod Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

6 29-08-2022 Heard learned counsel for the petitioner, learned
counsel for the private respondent no.5 and Mr. N.H. Khan,
learned SC-1 for the State.

Petitioner in this case is aggrieved by and dissatisfied
with the order dated 06.01.2020 passed by learned Judicial
Magistrate-1st Class, Gaya in Bodh Gaya P.S. Case No.186 of
2017 corresponding to G.R.No.1738 of 2017, TR.No.311/2019
registered under Sections 420, 406 and 379/34 of the Indian Pe-
nal Code whereby and whereunder the learned Magistrate has
been pleased to reject the petition dated 18.06.2019 for release



of the truck bearing Reg.No.NL02K-1521.

Learned counsel for the petitioner submits that at the instance of the informant saying that he had entered into an agreement in respect of the vehicle in question for purchase, one FIR was lodged under Section 379 IPC and in connection with the same the vehicle in question has been seized by the police.

Learned counsel submits that admittedly this petitioner is the registered owner. The vehicle is not involved in commission of any offence. The private respondent is not the owner of the vehicle but merely because he alleges breach of agreement for sale of the vehicle on the part of the petitioner, one FIR has been lodged and on the strength of the same the police had seized the vehicle. The vehicle is lying under open sky since June, 2019 and it has already lost its value and road worthiness.

Learned counsel submits that ignoring the submissions that the petitioner is the registered owner and the manner in which truck has been kept under open sky it will lose its road worthiness, the learned Judicial Magistrate rejected the application for release of the vehicle,

Learned counsel for the informant-private respondent no.5 submits that the informant had entered into an agreement



with the petitioner on 11.09.2012 and in terms of the said agreement the informant had paid him certain amount and also cleared the loan obtained from the financier. It is his allegation that later on the petitioner did not cooperate in transfer of the vehicle in question in favour of the private respondent and took away the vehicle.

Having regard to the submissions noted hereinabove and on finding that admittedly the petitioner is the registered owner and the vehicle in question is lying under open sky for more than three years which would be definitely causing a loss not only to the petitioner but also to the State and the vehicle is losing its road worthiness with passing of every day, keeping in view the principles laid down by the Hon'ble Supreme Court in the case of **Sunderbhai Ambalal Desai vs. State of Gujarat** reported in **(2002) 10 SCC 283** followed by **General Insurance Council and Others Vs. State of Andhra Pradesh and Others**, reported in **2010(6)SCC 768**, this Court sets aside the impugned order and directs release of the vehicle in question in favour of the petitioner subject to his furnishing proof of ownership and further condition that the petitioner shall not deal with the vehicle in question in any form or manner and shall produce the same as and when required in connection with the case and



by the order of the court.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

