

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.83 of 2021

In
Civil Writ Jurisdiction Case No.9008 of 2020

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Bikendra Kumar S/o - Bhagwan Ray Resident of village - Pohiya, P.O-
Bainsmara, P.S. - Garkha, District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Excise Department, Govt. of Bihar, Patna.
3. The Collector - cum - District Magistrate, District - Saran.
4. The Superintendent of Police, District- Saran.
5. The Officer In - Charge, Bheldi Police Station, District- Saran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Giri, Advocate
For the Opposite Party/s : Mr.Lalit Kishore (A.G.)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 19-09-2022

Petitioner has filed this review petition for review of order dated 08.12.2022 passed in C.W.J.C. No. 9008 of 2020 which was disposed of with direction to respondent no. 3, District Collector, Saran to pass appropriate order under the provisions of Excise Act. However, as there was no recovery of any illicit liquor from the seized vehicle, the vehicle was not liable for confiscation, as such, no proposal was sent to the District Collector by the police for confiscation of seized

vehicle, as such, no confiscation proceeding was pending before the District Collector, Saran.

For the reasons as stated in the review petition, the order dated 08.12.2020 passed in C.W.J.C. No. 9008 of 2020 is recalled on review and following order is being passed in C.W.J.C. No. 9008 of 2020 (Bikendra Kumar Vs. State of Bihar & Ors.).

Petitioner has prayed for release of the tractor with trailer bearing registration no. BR 04 GA 7218, Engine No. S325K31760 and Chassis No. 928213150140 in favour of the petitioner which has been seized in connection with Bheldi P.S. Case No. 55 of 2020 instituted for an offence under Section 279, 337, 338 and 304 (A) of the Indian Penal Code read with Section 37(b)(c) of Bihar Prohibition and Excise Act.

Allegation against the driver of the vehicle is driving the vehicle in a negligent and rash manner in drunken condition, as a result of which, vehicle met an accident with an auto and one person died due to said accident. There is no allegation of recovery of any illicit liquor from the seized vehicle.

As there is no allegation of recovery of any illicit liquor from the seized vehicle, same is not liable for confiscation under section 56 of the Bihar Prohibition & Excise Act, 2016 as such,

bar of jurisdiction in confiscation under section 60 of the Excise Act is not applicable and the concerned Special Court (Excise) where the criminal case is pending has jurisdiction to pass order for release of seized vehicle.

For the reasons, as stated above, the order dated 12.08.2020 passed by 2nd Additional Sessions Judge-Cum-Special Judge (Excise), Saran in Bheldi P.S. Case No. 55 of 2020 is set aside.

Writ petition is disposed of with liberty to petitioner who is owner of the seized vehicle to file an application under Section 451 of Cr.P.C for release of his seized vehicle in the concerned Special Court (Excise) who shall dispose of such petition within 30 days from the date of its filing.

The review petition is allowed.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA