

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No. 615 of 2017

An application under Section 401 of the Code of Criminal Procedure, 1973.

AFR Sonu Agrawal Petitioner

-Versus-

State of Odisha Opp. Party

Advocate(s) appeared in this case:-

For Petitioner : M/s. S.R. Mohapatra &
T.K. Mohapatra, Advocates.

For Opp. Party : Mr. Priyabrata Tripathy,
Addl. Standing Counsel

CORAM:

JUSTICE SASHIKANTA MISHRA

JUDGMENT

10th November, 2022

SASHIKANTA MISHRA, J.

The present revision is directed against the order dated 23.08.2017 passed by learned S.D.J.M., Sambalpur in C.M.A. No. 186 of 2017, whereby the application filed by the petitioner under Section 457 of

Cr.P.C. for release of the seized vehicle in his favour was rejected.

2. The petitioner claims to be the registered owner of an Oil Tanker bearing Registration No.OR02AH3907 seized by Hirakud Police in P.S. Case No. 3 dated 05.01.2016 corresponding to G.R. Case No. 37 of 2016 under Section 394 of IPC. The said case was registered on the written report of one Subash Chandra Paswan alleging that the vehicle bearing Registration No.OR16C1859 was forcibly taken away by some unknown culprits. In course of investigation, the Oil Tanker bearing Registration No.OR02AH3907, claimed to be owned by the petitioner, was seized from the premises of IOCL, Paradip. The petitioner was arrayed as an accused in the case relating to theft of the truck No.OR16C1859 and was subsequently released on bail. He filed an application under Section 457 of Cr.P.C. for release of the seized Oil Tanker bearing registration No.OR02AH3907 in his favour. Upon hearing the parties, learned Court below found that the petitioner had purchased the vehicle in question from one Shiba Prasad Nag and ownership thereof was transferred in his

favour on 23.08.2011. The vehicle was used in transportation of petroleum products from Paradip terminal to different places. During further investigation it came to light that the Oil Tanker bearing Registration No. OR02AH3907 belonging to the petitioner had met with an accident on Sonapur road in which the chassis and engine were completely damaged. The petitioner thereafter sold the vehicle to one Sumit Jaiswal, who dismantled the same and sold it as scrap. Such fact was not intimated to the RTO by the petitioner. Thereafter, on 02.01.2016, the petitioner along with some other persons forcibly snatched away a truck bearing Registration No. OR16C1859. The petitioner sold the engine of the said truck to Sumit Jaiswal and got another engine. He took the chassis of the said stolen truck to one Binay Sharma, who changed the chassis number and punched the chassis number of the vehicle OR02AH3907 and fitted the engine bought from Sumit Jaiswal and the cabin of the stolen vehicle. Thereafter, the petitioner got a tanker built from Sudhir Parida and thus, converted the stolen truck into a tanker and used the same with the documents of his vehicle OR02AH3907.

3. Heard Mr. S.R. Mohapatra, learned counsel for the petitioner and Mr. P. Tripathy, learned Addl. Standing Counsel for the State.

4. It is submitted by Mr. Mohapatra, learned counsel appearing for the petitioner that since the registration particulars and other documents showing ownership of the vehicle in favour of the petitioner are available, the vehicle ought to have been released in his favour, as otherwise he would be greatly prejudiced because of its non-use.

5. Mr. P. Tripathy, learned State Counsel has submitted that the petitioner has committed serious fraud by falsifying the engine number and chassis number of the stolen vehicle and by falsely utilizing the documents of his damaged vehicle to show the stolen vehicle as his vehicle. As such, he is not entitled to any relief.

6. From the narration of events, facts and circumstances referred above coupled with the rival contentions, it is seen that the vehicle standing in the name of the petitioner i.e., OR02AH3907 met with an accident on 11.12.2015 which led to registration of Tarava Police Station Case No. 226 of 2015. On the other hand, Hirakud P.S. No.

3 of 2016 was registered in connection with theft of the vehicle bearing Registration No. OR16C1859. It is also borne out from the record and case diary produced by learned State Counsel that the petitioner's vehicle was severely damaged due to the accident. There are prima facie materials in the form of report of SFSL that the engine number and chassis number of the stolen vehicle had been altered by deep erasure. Thus, according to the prosecution, the relevant particulars of the vehicle which was damaged in the accident (OR02AH3907) were incorporated in the stolen vehicle (OR16C1859) to change its identity. Therefore, according to prosecution, the vehicle being projected as OR02AH3907 is in reality the vehicle bearing Registration No.OR16C1859. There is no dispute that the petitioner is not the owner of the vehicle No.OR16C1859 but is the registered owner of the vehicle No.OR02AH3907.

7. Section 457 permits release of the property to the person entitled to possession thereof. Obviously, the petitioner cannot be prima facie, said to be the person entitled to possession of the vehicle bearing Registration No. OR16C1859. What order was passed relating to the

release/disposal of the vehicle that had met with an accident giving rise to Tarava P.S. Case No. 226 of 2015 is not forthcoming. The petitioner has not come forward to say how he took possession of the vehicle which had met with accident and was apparently seized in Tarava P.S. Case No. 226 of 2015. All these facts cumulatively create a reasonable doubt as regards the entitlement of the petitioner over the vehicle being projected as the one bearing Registration No.OR02AH3907. Learned court below has also taken into consideration all the above facts to reject the application of the petitioner.

8. For the foregoing reasons and the peculiar facts and circumstances indicated hereinbefore, this Court finds no reason to interfere. The CRLREV is accordingly dismissed.

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Sashikanta Mishra,
Judge

Orissa High Court, Cuttack,
The 10th November, 2022/ A.K. Rana, P.A.