

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9727 of 2020

Arising Out of PS. Case No.-112 Year-2017 Thana- DAUDPUR District- Saran

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Birendra Kumar Singh, S/o Kanhaiya Singh, resident of village- Babhaniaon,
P.S.- Jagdishpur, Distt.- Bhojpur.

... .. Petitioner

Versus

1. The State of Bihar
2. Paras Yadav S/O Vishwanath Yadav R/O Mohalla- A.M. Road, Nagaland
Makiyang, Makochung,798601 At Present- R/O Village- Nagai, P.S.-
Siswan, District- Siwan
3. The Branch Manager, Tata Capital Financial Services Ltd. Patna Branch,
Patna.

... .. Opposite Parties

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with
CRIMINAL MISCELLANEOUS No. 13677 of 2020

Arising Out of PS. Case No.-112 Year-2017 Thana- DAUDPUR District- Saran

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Paras Yadav @ Parasnath Yadav, son of Vishwanath Yadav, Resident of
Village- A M Road, Nagaland Makirang, Mukuchand, at present resident of
Village - Nagai, P.S.- Siswan, Dist.- Siwan.

... .. Petitioner

Versus

1. The State Of Bihar
2. Birendra Kumar Singh Son of Kanhaiya Singh Resident of Village-
Babhnaiya, P.S.- Jagdish Pur, Distt.- Bhojpur.

... .. Opposite Parties

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 9727 of 2020)

For the Petitioner : Mr. Dr. Kamal Deo Sharma, Advocate
For the State : Mr. Harendra Prasad, APP
For Tata Capital Financial Services Ltd:- Sri Dayanand Singh, Advocate

(In CRIMINAL MISCELLANEOUS No. 13677 of 2020)

For the Petitioner : Mr. Ashok Kumar, Advocate
For the State : Mr. Ram Sumiran Rai, APP
For Tata Capital Financial Services Ltd:- Sri Dayanand Singh, Advocate



CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

7 22-03-2023 Heard learned counsel for the petitioners of both the cases, learned APP for the State as well as learned counsel for the Tata Capital Financial Services Limited.

In both these cases, the petitioners are challenging the common order dated 03.12.2019 passed by learned Sessions Judge, Saran at Chapra, in Criminal Revision No. 115 of 2019 and Criminal Revision No.226 of 2019, by which the Court below has dismissed both the revision applications and affirmed the order dated 02.07.2018 whereby the learned Judicial Magistrate, 1st Class, Saran at Chapra, has rejected the petitions filed by the both the petitioners for releasing the JCB machine.

It has been submitted by both the parties that the matter has been settled between the petitioner of Criminal Miscellaneous No.9727 of 2020 and Tata Capital Financial Services Limited (for short “the Financer”) and as per the settlement, the petitioner has agreed to pay Rs.9,00,000/- in nine equal installments for final settlement of his loan amount with the Financer and the first installment of Rs.50,000/- shall be paid to the Financer before 31.03.2023 and rest eight installments will be paid on monthly basis. The balance amount of first installment i.e. Rs.50,000/- shall be paid by the petitioner



by 05.04.2023.

Considering the aforesaid submission of the parties,
Criminal Miscellaneous No.9727 of 2020 is allowed.

The JCB machine in question is directed to be released in favour of the petitioner of Criminal Miscellaneous No.9727 of 2020 subject to payment of Rs.9,00,000/- in the Court below in nine monthly installments. Failure to pay any installment on the part of the petitioner, as agreed between the parties, will result in seizure of the JCB machine by the Financer as per the Hire Purchase Agreement.

Till the petitioner of Criminal Miscellaneous No. 9727 of 2020 pays the entire dues, the petitioner will not sale of JCB machine. In case, the petitioner wants to shift JCB machine outside Ara district for earning his livelihood then he will inform the Financer about the new location of the JCB machine and give the true particulars of the project in which JCB machine is given on hire by the petitioner.

So far as the petitioner of Criminal Miscellaneous No. 13677 of 2020 is concerned, he is neither a purchaser from the Financer, who is legal owner, nor he has produced any document to show that he has purchased the said JCB machine from the legal owner.



In that view of the matter, the claim of the petitioner for releasing the vehicle in his favour is not maintainable.

Accordingly, Criminal Miscellaneous No.13677 of 2020 is dismissed. However, the petitioner is free to proceed for recovery of amount from his vendor.

(Sandeep Kumar, J)

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