

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31603 of 2016

Arising Out of PS. Case No.-6 Year-2012 Thana- JANDAHA District- Vaishali

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Anil Kumar Arya S/o Deolal Rai, Resident of Village-Mahisaur, P.S. Jandaha,
District-Vaishali.

... .. Petitioner/s

Versus

1. The State Of Bihar

2. Sunil Kumar, Son of Deonarayan Rai, Resident of Village +P.O.
Bhikhanpura, P.S. Desri, District- Vaishali.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nachiketa Jha, Advocate

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 14-09-2023 1. Heard learned counsel for the petitioner and
learned APP for the State.

2. The learned counsel for the petitioner submits that
the present quashing application has been filed seeking quashing
of the order dated 16.03.2016 passed in G.R. No. 60 of 2012
(Jandaha P.S. Case No. 06 of 2012) whereby the learned
Additional Chief Judicial Magistrate, 5th Vaishali at Hazipur had
released the Bolero Jeep in favour of the O.P. No. 2.

3. What is not disputed rather stands admitted by the
learned counsel for the petitioner is that the petitioner is not the
owner of the Bolero vehicle rather the ownership is with the
O.P. No. 2. It is next submitted that O.P. No. 2, being the owner



of the vehicle, had entered into an agreement with the petitioner for selling the vehicle for a consideration and the agreement also incorporated that the sale deed would be executed after a certain amount is paid, it is next submitted that in pursuance of the agreement, the vehicle was handed over by the O.P. No. 2 in favour of the petitioner, but then the sale deed never came to be executed. It is next submitted that the O.P. No. 2, thereafter, instituted an F.I.R. against the petitioner alleging that he had committed theft of the vehicle, but the police after investigation submitted final form finding the petitioner to be innocent. It is next submitted that thereafter O.P. No. 2 filed an application under Section 451 of the Cr.P.C. seeking release of the vehicle from the possession of the petitioner, accordingly, the learned Additional Chief Judicial Magistrate, 5th Vaishali at Hajipur by order dated 16.03.2016 released the vehicle in favour of the O.P. No. 2, it is this order which is under challenge.

4. The learned counsel for the petitioner submits that petitioner was never given any opportunity of hearing and without hearing the petitioner, the vehicle was released in favour of the O.P. No. 2 which makes the order of the learned Additional Chief Judicial Magistrate, 5th, Vaishali at Hajipur vulnerable.



5. The learned A.P.P. for the State, Mr. Chandra Bhushan Prasad, vehemently opposes the submissions made by the learned counsel for the petitioner and submits that it is not in dispute that O.P. No. 2 is the owner of the vehicle, till date, the vehicle in question has not been transferred in favour of the petitioner, the legal ownership still rests with the O.P. No. 2, as such, if the Court has passed an order in favour of the O.P. No. 2 releasing the vehicle, the order is absolutely justified with no infirmity. The learned A.P.P. further submits that though it has been submitted that petitioner was not heard, but then principles of natural justice is not in a straitjacket formula, it depends upon the facts of the case also and the facts in the present case is that O.P. No. 2 is the owner of the vehicle in question.

6. Considering the submissions made by the learned A.P.P. for the State, the Court does not find any merit in the quashing application.

7. Accordingly, the present quashing application stands rejected.

(Satyavrat Verma, J)

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