

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41195 of 2022

Arising Out of PS. Case No.-734 Year-2021 Thana- BRAHMPUR District- Buxar

Rahul Kumar Keshri S/O Lakshman Prasad Keshri Resident Of Ward No. 17,
Bandhan Patwa Road, P.S.- Dumraon, District - Buxar.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari, Advocate

For the Opposite Party/s : Mr. Amitesh Kumar, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 03-04-2023 Heard the learned counsel for the parties.

This application has been filed for quashing of the order dated 02.03.2022 passed by learned Chief Judicial Magistrate, Buxar in Brahmpur P.S. Case No. 734 of 2021 for the offences under Sections 279, 337, 338 of the Indian Penal Code as well as quashing of the revisional order dated 12.05.2022 passed by learned Successor Additional District & Sessions Judge-III, Buxar in Criminal Revision No. 26 of 2022/ C.I.S No. 26 of 2022.

The following order was passed on 13.03.2023:-

“Heard learned counsel for the petitioner and learned APP for the State.

This application has been filed for quashing of order dated 02.03.2022 passed by learned Chief Judicial Magistrate, Buxar in Brahmpur P.S. Case No. 734 of 2021 for the



offences under Sections 279, 337, 338 of the Indian Penal Code as well as quashing of the revisional order dated 12.05.2022 passed by learned Successor Additional District & Sessions Judge-III, Buxar in Criminal Revision No. 26 of 2022/ C.I.S No. 26 of 2022.

The vehicle was financed from Chola Mandalam Finance Company and Chola Mandalam Finance Company is the registered owner and petitioner had taken Pickup Van on Hire Purchase Agreement. Until and unless the petitioner obtains an N.O.C from Chola Mandalam Finance Company and gets the name of Chola Mandalam Finance Company deleted from R.C. Book, the petitioner cannot claim any right of release. At this stage, Learned counsel for the petitioner submits that he may be permitted add Chola Mandalam Finance Company as opposite party no. 2. The petitioner is permitted to add as Chola Mandalam Finance Company as opposite party no. 2

Mr. Dayanand Singh appears as one of the lawyers appearing regularly for Chola Mandalam Finance Company in this Court. In these circumstances, a copy of the petition be served upon to Mr. Dayanand Singh and Mr. Dhananjay Kashyap by learned counsel for the petitioner.

Mr. Dayanand Singh, learned counsel for Chola Mandalam Finance Company will file a counter affidavit on or before the next date of hearing.

List this case after a week for further hearing.”

Heard the learned counsel for the petitioner, learned counsel for the State and Mr. Dayanand Singh, learned counsel



for Chola Mandalam Finance Company.

Learned counsel for Chola Mandalam Finance Company, Mr. Dayanand Singh has submitted that the petitioner is making regular payment of the installments of the vehicle which was financed by the Chola Mandalam Finance Company. A pickup van is the subject matter of an accident and the release of the same has been refused by the Court below.

Learned counsel for the petitioner has relied upon a judgment of the Hon'ble Supreme Court in the case of ***Sunderbhai Ambalal Desai vs State of Gujarat 2002 10 SCC 283.***

The vehicle in question cannot be left to decay during the pendency of the case.

In view of the law laid down by the Hon'ble Supreme Court in the case of ***Sunderbhai Ambalal Desai vs State of Gujarat (Supra)***, this application is allowed.

The vehicle in question is directed to be released in favour of the petitioner. The petitioner cannot sell the vehicle without obtaining the N.O.C. from Chola Mandalam Finance Company. In case the petitioner fails in making regular installments, the Chola Mandalam Finance Company is at liberty to take steps for repossession of the vehicle under the



Hire Purchase Agreement entered between the petitioner and the Chola Mandalam Finance Company.

With the aforesaid observation and direction, this application is allowed and the order dated 02.03.2022 passed by learned C.J.M. Buxar in Brahmpur P.S. Case No. 734 of 2021 and the revisional order dated 12.05.2022 passed in Criminal Revision No. 26 of 2022 / C.I.S. No. 26 of 2022 passed by the learned Successor Additional District and Sessions Judge-III Buxar are hereby quashed.

(Sandeep Kumar, J)

Shishir/Vikas

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