

Arising Out of PS. Case No.-256 Year-2017 Thana- JAKKANPUR District- Patna

... .. Petitioner/s

Versus

- Opposite Party/s

For the Petitioner/s : Mr. Anuj Kumar, Advocate
For the Opposite Party/s : Mr. Sri Jharkhandi Upadhyay, APP

2 01-05-2024 1. Heard learned counsel for the parties concerned.

2. The petitioner has filed the present application being aggrieved by the order dated 22.05.2018, passed by A.C.J.M.-1st, Patna in Jakkanpur PS case no. 256 of 2017 (G.R. no. 5119 of 2017), whereby three buses, seized by the Police having registration no. BR 31P-9125, BR 31P-9127 and BR 01PF/2592, have been released in favour of its owner Abhishek Kumar.

3. Learned counsel for the petitioner submits that three buses, in question, were owned by opposite party no. 2, who had purchased the buses on loan from Corporation Bank, Exhibition Road Branch, Patna. The opposite party



no. 2 approached the petitioner for sale of three buses and trusting upon him, the petitioner agreed to purchase the buses and paid a sum of Rs. 21,01,000/-, which was received by the son of opposite party no. 2 namely Abhishek Kumar. The possession of the buses were handed over to the petitioner and authorization slip was prepared on non-judicial stamp paper of worth Rs. 100/-.

Learned counsel for the petitioner further submits that opposite party no. 2 played fraud by not informing the petitioner that a sum of Rs. 36 lacs was already outstanding loan upon the aforesaid three buses and a forged document was presented to the petitioner, by opposite party no. 2 and his son, showing that only Rs. 97,000/- was payable. According to the petitioner, the buses were seized in F.I.R. bearing Jakkanpur PS case no. 256 of 2107.

4. I have heard learned counsel for the petitioner and perused the impugned order 22.05.2018. There is disputed question of facts regarding purchase of the buses by the petitioner from opposite party no. 2. According to the petitioner, he has been duped and deceived by opposite



party no. 2 at the time of selling the three buses in his favour by concealing the material fact that the outstanding loan upon the buses, as on the date of sale, was Rs. 36 lacs and not Rs. 97,000/-, as represented by the opposite party no. 2 before the petitioner by showing forged and fabricated documents of the Corporation Bank.

The petitioner has already filed a complaint in this regard bearing complain case no. 567 of 2017, which is pending before the court of learned A.C.J.M.-1st, Danapur. The learned A.C.J.M.-1st, Danapur, while releasing the buses in favour of the son of opposite party no. 2 Abhishek Kumar, has taken note of the report of the police as well as the document of ownership and registration, which were standing in the name of Abhishek Kumar.

The disputed fact of ownership between petitioner and opposite party no. 2 cannot be decided by the learned Magistrate and the learned Magistrate has rightly released the buses in favour of its registered owner i.e. Abhishek Kumar.

5. Accordingly, I do not find any infirmity in the impugned order dated 22.05.2018, passed by A.C.J.M.-1st,



Patna in Jakkanpur PS case no. 256 of 2017, hence the present application is dismissed, however, liberty is granted to the petitioner to pursue the claim of his ownership over the said buses in a duly constituted case before the appropriate court.

(Anil Kumar Sinha, J)

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