

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1338 of 2021

Arising Out of PS. Case No.- Year-0 Thana- District- Patna

VIVEK RAJ Son of Vijay Sharma Resident of Mohalla - Sankat Mochan
Lane Chowk Shikarpur, Nalapar, P.S. - Chowk, Patna City, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Through Home Secretary, Deptt. of Home, Govt. of Bihar, Patna Bihar
2. The Director General of Police, Bihar, Patna. Bihar
3. The District Magistrate, Patna. Bihar
4. The Sr. Superintendent of Police, Patna. Bihar
5. The Superintendent of Police (Traffic), Patna. Bihar
6. The Dy. Superintendent of Police (Traffic-3rd), Patna. Bihar
7. The S.H.O. Rukunpura, Patna. Bihar
8. Mr. Anil Sharma, A.S.I., Rukanpura, Patna. Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Santosh Kumar Singh, Adv
For the Respondent/s : Mr. Manish Kumar

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

6 05-04-2024 The petitioner is the son of the registered owner of a four wheeler vehicle bearing registration no. BR01EL2559. The case under section 184 of the Motor Vehicle Act was registered against him for driving the vehicle through the wrong side of the road on 01.10.2024 and an electronic challan was immediately issued to him imposing fine of Rs. 5,000/-. It is contended on behalf of the petitioner that the challan shows that the petitioner allegedly committed offence under section 179(1) of the Motor Vehicle Act of 1988 but he was imposed fine under section 184



of the said Act.

2. The learned advocate for the petitioner next draws my attention to the order dated 18.10.2022 passed by my esteemed colleague Hon'ble Rajeev Ranjan Prasad, J directing the respondents authority to come up with a supplementary counter affidavit explaining the complete material which have been found in the inquiry and whether it has been verified from the CCTV footage etc. The supplementary counter affidavit shall be filed by person other than the person who has conducted the inquiry.

3. The co-ordinate bench was also pleased to direct to file the guidelines, if any, for imposition of fine in the matter of violation of the provisions of the Motor Vehicle Act of 1988 and the Rules framed thereunder. In a given instance, if the minimum amount of fine is provided in the statute, while the maximum amount was charged and what was the guideline for charging such maximum amount of fine against the petitioner.

4. The learned advocate for the petitioner rightly submits that on 18.11.2021 a report was obtained from the Deputy Superintendent of Police (Traffic), Patna and in the report he informed that the petitioner was driving a motorcycle however, the petitioner was driving a car bearing registration no.



BR01EL2559. It is also contended by the learned advocate for the petitioner that he was not driving the vehicle at all at 2:35 P.M. on 1st November, 2021 as alleged by the prosecution. On the other hand, he was driving the vehicle on 1st November, 2021 at about 6:30 P.M. through the Saguna Mod towards Patna.

5. It is found from the supplementary affidavit sworn by the Superintendent of Police (Traffic), Patna that in the report the dated 18.11.2021 Deputy Superintendent of Police (Traffic), Patna mistakenly wrote the description of the vehicle as motorcycle. It is also admitted by him that in respect of imposition of fine higher than the minimum fine stated under section 184 of the Motor Vehicle Act the Secretary Transport Department has been requested to formulate the guideline however, the said guideline has not been prepared. It is also stated by the Superintendent of Police (Traffic), Patna that prosecution challans are issued through the hand hold device operated electronically where there is provision to impose either minimum or maximum fine there is no provision to impose fine in between. From the counter affidavit it is found that as per the order dated 18.10.2022 the Transport Department has not framed any guideline of imposition of fine as yet. It is also true that CCTV footage of the locality was not verified as per the



direction of this Court vide order dated 18.10.2022.

6. When in the initial report dated 18.11.2021 the Deputy Superintendent of Police (Traffic-3rd), Patna mentioned the nature of the vehicle as motorcycle and fine was imposed on a four wheeler, the identity of the vehicle involved in violating the provisions of the Motor Vehicle Act is in doubt.

7. At the same time, this Court is not unmindful to know that the petitioner is the son of the registered owner of the vehicle. He has not produced any letter of authority issued by the registered owner to drive the vehicle at any point of time, either at 2:35 P.M. or at 6:30 P.M. on 01.11.2021 whenever the registered owner delivers his vehicle for driving, letter of authority is absolutely required not only for the purpose of permission but also fixed in third party liability in the claim of the petitioner in respect of the claim of any person had the vehicle been involved in any road traffic accident.

8. For the reasons stated above this Court is of the view that since the petitioner was driving the vehicle without authority and no previous offence is reported against the petitioner he is directed to pay fine of Rs. 500/- to the department within 15 days from the date of this order, if he fails to pay such amount, the department is at liberty to issue



prosecution against the petitioner for unauthorized driving.

9. The instant writ petition is accordingly disposed of.

10. The Respondent No. 5 is directed to move to the transport department for preparation of the guideline relating to imposition of fine within four weeks from the date of the order, failing which the vehicle owners and the authorized drivers will be at liberty to challenge imposition of fine before the competent court for the absence of any such guideline. Let a copy of this order be sent to the Superintendent of Police (Traffic), Patna for information and compliance.

(Bibek Chaudhuri, J)

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