

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63854 of 2023

Arising Out of PS. Case No.-167 Year-2020 Thana- LODIPUR District- Bhagalpur

Md. Saine @ Sine Son Of Md. Samad Village- Lodipur, Ps- Lodipur, Dist- Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Dilip Mahaldar Son Of Kailash Mahaldar Village- Ajhokupa, Ps- Rupauli, Dist- Bhagalpur

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhananjay Kumar Pandey, Advocate
For the State : Mr.Shyameshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

6 01-07-2024 Heard learned counsel for the petitioner; learned APP
for the State and learned counsel for the Opposite Party no. 2.

2. The following order was passed by this Court on
11.12.2023, which reads as under:

*“ 1. Heard learned counsel for the
petitioner and learned A.P.P. for the State.*

*2. Issue notice to the opposite party
no. 2, both under registered cover with A/D as
well as ordinary process for which requisites
etc. must be filed on or before 21.12.2023,
failing which this application, as against
opposite party no. 2, shall stand rejected
without further reference to a Bench.*

3. Put up this case on 12.02.2024.

*4. In the meantime, the operation of
the order dated 27.07.2021 passed by the
learned Additional Chief Judicial Magistrate-
IX, Bhagalpur in Lodipur P.S. Case No. 167 of
2020 whereby cognizance of the offences under
Sections 341, 323, 504, 406 and 420 of the*



Indian Penal Code has been taken, shall remain stayed.

5. Learned counsel for the petitioner submits that the informant alleges that he had purchased a Mahindra Pick-up Van bearing registration no. BR09GA3368FB1353 for an amount of Rs.4,35,000/-. On 03.07.2019, he gave Rs.1,70,000/- to the petitioner and rest of Rs.2,35,000/- on 02.08.2019 but the vehicle was not handed over to him till the date of instituting the FIR. Learned counsel further submits that no doubt what has been alleged is true but then on account of dispute between the petitioner and the informant the deal could not go through but the petitioner through NEFT returned an amount of Rs.2 lakhs to the informant as would be evident from Annexure-2 to the quashing application. It is next submitted that petitioner is ready to return the rest of the amount also.”

3. On the last occasion, the petitioner had submitted that he is ready to return the rest of the amount. Today, learned counsel for the petitioner submits that he is ready to return only 90,000/- as he has already paid Rs. 1,10,000/- in cash before some witnesses. This stand of the petitioner subsequent to the order dated 11.12.2023 does not entitle him to any relief from this Court. Once he had submitted before this Court that the petitioner is ready to return the balance amount now he cannot resile from the same.

4. Accordingly, this application is dismissed because the petitioner is resiling from his undertaking.

5. The Court below is directed to proceed



and conclude the case within six months.

6. Let a copy of this order be communicated to the District Judge, Bhagalpur, forthwith through FAX or e-mail for its compliance.

(Sandeep Kumar, J)

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