IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.3290 of 2024

Naresh Sharma, aged about 52 years, S/O Nirpat Sharma, R/O Village-Badadih, P.O.-Bichkodwa, P.S.-Chakai, District-Jamui (Bihar). … Petitioner

Versus

The State of Jharkhand … Opposite Party

For the Petitioner : Mr. Prashant Kr. Rai, Advocate
: Mr. Anuj Kr. Trivedi, Advocate
: Mr. Rohit Kr. Gupta, Advocate
For the State : Mr. Shiv Shankar Kumar, Addl.P.P.

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- Heard the parties.

2. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 528 of BNSS, 2023 with a prayer to quash and set aside the order dated 05.09.2024 passed by the learned Judicial Magistrate-1st Class, Giridih in connection with Jamua P.S. Case No.96 of 2024 by which the learned Judicial Magistrate-1st Class, Giridih has rejected the prayer of the petitioner for release of the seized i20 car on the ground that the car was without having a valid insurance at the time of the accident.

3. The brief fact of the case is that the said i20 car of the petitioner bearing registration no.JH-15Z-9492 being rashly and negligently driven dashed the scooty which the father of the informant namely Vinod Choudhary was riding, resulting in spot death of the father of the informant. On the basis of the written report submitted by the informant, police registered Jamua P.S. Case No.96 of 2024 and seized the said i20 car involved in the accident. The vehicle

in question was not covered by the policy of insurance against third-party risks and on that ground, that the learned JMFC, Giridih rejected the prayer for release of the vehicle in question.

4. Learned counsel for the petitioner submits that the petitioner purchased the vehicle for his own need and the allegations against the petitioner are false. In the meanwhile, the petitioner got the said vehicle insured which was valid from 10.09.2024 to 09.09.2025. It is next submitted that if the vehicle being the i20 car concerned is allowed to remain under open sky, the vehicle will lose its utility and the condition of the vehicle will deteriorate and its value will diminish. It is next submitted that there is no chance of the trial being concluded in the near future. It is then submitted that the petitioner is ready and willing to abide by any condition imposed for release of vehicle. Hence, it is submitted that the vehicle concerned be released in favour of the petitioner.

5. Learned Addl.P.P. opposes the prayer.

6. It is a settled principle of law as has been held by the Hon'ble Supreme Court of India in the case of **Sunderbhai Ambalal Desai V. State of Gujarat** reported in **AIR 2003 SC 638,** that it is of no use to keep the seized vehicle at the police station for a long time and it is for the magistrate to pass appropriate orders immediately by taking of bond and guarantee as well as security for the return of the vehicle, if required at any point of time that can be ordered to be produced.

7. Now coming to the facts of the case, it is undisputed that the petitioner is the owner of the vehicle. It is certainly not desirable that a vehicle seized by the police be kept under open sky when there is no chance of the trial being concluded within any reasonable time.

8. So far as the Rule 6 of Jharkhand Motor Accidents Claims Tribunal Rules, 2019 is concerned, the same reads as under:-

> **6. Prohibition against release of motor vehicle involved in accident.-**
> (1) No court shall release a motor vehicle involved in an accident resulting in death or bodily injury or damage to property, when such vehicle is not covered by the policy of insurance against third party risks taken in the name of registered owner or when the registered owner fails to furnish copy of such insurance policy despite demand by investigating police officer, unless and until the registered owner furnishes sufficient security to the satisfaction of the court to pay compensation that may be awarded in a claim case arising out of such accident.
> (2) Where the motor vehicle is not covered by a policy of insurance against third party risks, or when registered owner of the motor vehicle fails to furnish copy of such policy in circumstance mentioned in sub-rule (1), the motor vehicle shall be sold off in public auction by the magistrate having jurisdiction over the area where accident occurred, on expiry of three months of the vehicle being taken in possession by the investigating police officer, and proceeds thereof shall be deposited with the Claims Tribunal having jurisdiction over the area in question, within fifteen days for purpose of satisfying the compensation that may have been awarded, or may be awarded in a claim case arising out of such accident. (Emphasis supplied)

9. So, a plain reading of the Rule 6 makes it abundantly clear that there is no total ban on release of vehicle seized by police which has no insurance cover for a third party risk rather it has envisioned that as a condition precedent for release of seized vehicle involved in accident, such security or cash deposit is to be made by the owner of the vehicle within a period of three months and if within a period of three months, the owner of the vehicle fails to deposit the security/cash amount, appropriate steps may be taken for disposal of the vehicle and the sale proceeds be held in deposit until the claim case is disposed of.

10. Now coming to the facts of the case, this Court has no hesitation in holding that the learned Judicial Magistrate, 1st Class, Giridih has failed to act in accordance with Rule-6 of the Jharkhand Motor Accidents Claims Tribunal Rules, 2019 and have unnecessarily allowed the vehicle to be kept under open sky and thereby diminishing its value. As already indicated above, Rule -6 of the Jharkhand Motor Accidents Claims Tribunal Rules, 2019 mandates that if an owner of the vehicle, even if the vehicle is involved in an accident causing death of or bodily injury to any person or injury to any property, has no insurance covering the third-party risks, if otherwise, the petitioner seeking the release of the vehicle is entitled to get custody of the vehicle as per law, the absence of the insurance policy covering the third-party risks will not be an impediment for release of the vehicle but the rider is; in such a case the registered owner must be asked to furnish sufficient security to the satisfaction of the court to pay compensation that may be awarded in a claim case arising out of such accident. But the learned Judicial Magistrate, 1st Class, Giridih has not given any opportunity to the owner of the vehicle to furnish sufficient security to the satisfaction of the court to pay the compensation amount that may be awarded, in any claim case arising out of the accident. It is crystal clear from the facts of the case that though the seized vehicle allegedly involved in the accident has been seized for more than 6 months, the learned Judicial Magistrate, 1st Class, Giridih has not taken any steps to ensure compliance of Rule-6(2) of the Jharkhand Motor Accidents Claims Tribunal Rules, 2019, which envisages that the motor vehicle, the owner of which fails to furnish the insurance policy covering the third-party risks, shall be sold off in public

auction by the magistrate having jurisdiction over the area where accident occurred.

11. Under such circumstances, the order dated 05.09.2024, passed by the learned Judicial Magistrate, 1st Class, Giridih in Jamua P.S. Case No. 96 of 2024 being not sustainable in law is quashed and set aside, and the prayer of the petitioner for release of the i20 car bearing registration number JH-15Z-9492 is allowed subject to the petitioner furnishing sufficient security to the satisfaction of the learned Judicial Magistrate, 1st Class, Giridih to pay compensation that may be awarded, in any claim case arising out of the said accident.

12. Accordingly, the petitioner who is the registered owner of vehicle sought to be released being the i20 car bearing registration number JH-15Z-9492 is directed to furnish an indemnity bond of Rs.10,000,00/- with two solvent sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Giridih to pay compensation that may be awarded in any claim case arising out of such accident and in case, such security is furnished, the learned Judicial Magistrate, 1st Class, Giridih is directed to release the i20 car bearing registration number JH-15Z-9492 in favour of the petitioner, upon his undertaking to produce the vehicle as and when required by the learned trial court or by the investigating officer of the case and any other conditions that may be imposed by the learned trial court.

13. In the result, this criminal miscellaneous petition is allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 04th of December, 2024
AFR/ Abhiraj