

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49781 of 2024

Arising Out of PS. Case No.-105 Year-2023 Thana- GANGABRIDGE District- Vaishali

KAILASH PRASAD CHAURASIYA SON OF RAM SAKAL
CHAURASIYA @ RAM SAKAL BHAGAT R/O- VILLAGE- JASPARHA,
P.O.- MILKI CHAKWAJ, P.S.- TISIAUTA, DISTT.- VAISHALI

... .. Petitioner/s

Versus

1. The State of Bihar
2. M/S Chola Mandalam Investment and Finance Company Limited, Boring Road, Patna.
3. Diwakar Kumar, Son of Raj Kishore Choudhary, resident of village Mangurahi, P.S. Ganga Bridge, District Vaishali, Pin Code-844102.

... .. Opposite Parties.

Appearance :

For the Petitioner/s	:	Mr. Manish, Advocate
For the Opposite Party/s	:	Mr. Yogendra Kumar, APP
For the O.P. No.2	:	Mr. Dhananjay Kashyap, Advocate
For the O.P. No.3	:	Mr. Rajiv Ranjan Singh, Advocate

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

11 22-07-2025 Heard learned counsel for the petitioner and learned
counsel for the opposite parties.

2. The petitioner apprehends his arrest for the offences punishable under Section 406, 420, 384 and 504 of the Indian Penal Code.

3. The prosecution case, as unfolded in the first information report, is that one Ashok Leyland truck, which was purchased by the informant and financed by the Chola Mandalam Investment & Finance Company Limited (in brevity, Finance Company) for a price of Rs.25,89,778/-, was handed over to his driver, Kailash Prasad Chaurasiya (petitioner) on



20.08.2020 for driving under an authority paper in his name effective till 04.08.2021 and the driver, after loading the products to be taken to Chhattisgarh, never gave any information with regard to the said truck or proceeds of the income from plying of the said truck. Further allegation is that when the informant asked him about the truck, the petitioner did not divulge any information, rather asked for ransom of Rs.13 lacs.

4. Learned counsel for the petitioner submits that as a matter of fact petitioner is the real owner of the said truck and R.C. stands in his name as would be evident from Annexure-P/3 to this application. It is further submitted that due to an earlier transaction between the petitioner and the informant an amount of Rs.9,88,000/- of the petitioner was due upon the informant. Further, as per para 4 and 5 of the counter affidavit filed on behalf of the District Transport Officer (D.T.O.), Muzaffarpur, it would appear that Ashok Leyland truck was purchased by the present petitioner and, upon application of transfer of ownership, the said vehicle was transferred to the informant. It is further submitted that from a perusal of Annexure-1 of this application, it would be clear that the Finance Company has also filed a separate complaint, wherein besides the petitioner, the



present informant is also an accused and the petitioner has been made an accused only in the capacity of being a guarantor of the loan amount. In the said complaint filed by the Finance Company, the petitioner has been made accused as he had repaid only some of his legal liabilities and debts, while a sum of Rs.17,35,149/- along with the interest was still due and payable to the Finance Company. Hence, by non-payment accused persons had cheated the Finance Company and also committed criminal breach of trust. However, according to the petitioner, he has neither caused disappearance of the truck nor has any financial liability towards the same.

5. Learned counsel for the informant refers to the F.I.R. to submit that even after expiry of the authority given to the petitioner, he neither returned the truck to the informant nor forwarded any proceeds collected with regard to plying of the truck. He further refers to the counter affidavit filed by the D.T.O., wherein it has been stated in para-6 that the truck is in the name of the informant. From the counter affidavit filed on behalf of opposite party no.2, he has shown the toll tax receipt statements in the name of the petitioner to contend that he has been plying the same. The attention of the Court is also invited to an agreement executed between the informant and the



petitioner (Annexure-R/7) dated 24.02.2022, wherein the petitioner has agreed to take the truck from the informant for the purposes of plying and depositing some money to the Finance Company and some to the informant. According to the affidavit of the Finance Company, it was the petitioner who had purchased the truck by obtaining loan from the Company and upon his committing default, the loan was reassigned to the informant wherein the petitioner stood as guarantor.

6. Having heard learned counsel for the parties and perusing the materials available on record, it appears that the truck in question is nowhere to be found and there is a dispute over the ownership of the said truck. There are claims and counter claims by the contesting parties and both informant and petitioner have been made accused in the complaint filed by the Finance Company, in such complicated facts of this case, the matter can be finally thrashed out at a subsequent stage through trial by leading evidence. It further appears that the nature of the allegations relate to business transactions and the petitioner is a guarantor of the loan amount as per the Finance Company and there can be other remedies of recovering either the truck or the loan amount.

7. Taking into consideration the facts and



circumstances of the case as also the fact that the petitioner has no criminal antecedent barring the present case and the case filed by the Finance Company in the related subject matter in which he is on bail, let the above named petitioner, be released on bail, in the event of his arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Court below where the case is pending/ successor Court in connection with Ganga Bridge P.S. Case No.105 of 2023, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. However, it is expected that the petitioner would cooperate with the Investigating Agency in order to recovery of the missing truck.

(Soni Shrivastava, J.)

Trivedi/-

U		T	
---	--	---	--

