

(2020) 01 PAT CK 0410

In the Patna High Court

Case No : Criminal Miscellaneous No. 84723 Of 2019

Chandrashekhar Singh

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 31-01-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482

Citation : (2020) 01 PAT CK 0410

Hon'ble Judges : S. Kumar, J

Bench : Single Bench

Advocate : Gautam Kumar Kejriwal, Atal Bihari Pandey, Alok Kumar Jha, Anil Kumar Singh

Final Decision : Allowed

Judgement

Heard the parties.

2. This application has been filed under Section 482 of Cr.P.C. for setting aside the order dated 27.11.2019 alongwith modified order dated 28.11.2019 passed by learned Sub-Divisional Judicial Magistrate, Begusarai in Barauni Refinery P.S. Case No. 423 of 2019 (G.R. No. 3575 of 2019) by which prayer of petitioner for release of stock of petrol and diesel has been rejected.

3. Petitioner is one of the partners of M/s Chandrashekhar carriers and deals in business in transportation of petroleum products and has been awarded transportation contract by Oil Corporation and firm had offered a total of six tanks lorries to Hindustan Petroleum Corporation Ltd. for transportation of bulk petroleum product and one of the tank trucks bearing registration No. BR-09GA2219 was provided a stock of 4,500 litre of high speed diesel and 13,500 litre of motor spirit and same was to be delivered to M/s Mahavir Petroleum at Darbhanga.

4. Petitioner was informed on 14.09.2019 at about 5.30 PM that said tank truck alongwith stock was seized by local police in connection with unauthorised

unloading of petroleum products from the said tanker by two persons and one of whom was the driver and accordingly local Block Supply Officer had instituted an FIR and due to which the stock of petroleum product as well as truck tanker was seized and petroleum product could not be delivered.

5. The owner of said tank truck applied before the court of learned S.D.J.M., Begusarai for release of the tank truck and same was released by order dated 08.11.2019 and one of the reasons for release was report dated 07.11.2019 by which court was intimated that there was no proposal pending for confiscation of said tank truck.

6. Petitioner being transporter of the petroleum product from the loading point to its destination and due to seizure of the aforesaid tank truck as well as the stock of petroleum product he could not supply the said product to the destination point, as such petitioner filed a petition before the learned S.D.J.M., Begusarai seeking release of the stock of motor spirit and high speed diesel and a report was called for from the office of District Magistrate, Begusarai as regards any initiation of confiscation proceeding for the stock of petroleum products and it was reported by letter dated 15.10.2019 that the proceeding for confiscation was going on in connection with stock of petroleum product and accordingly the learned S.D.J.M., Begusarai rejected the prayer of petitioner for release of stock of petroleum products by impugned order dated 27.11.2019.

7. Petitioner is no where involved in the entire episode as the tank truck with driver and other persons were employees of the owner of the tank truck, however, corporation is calling upon petitioner to pay the amount of seized petroleum products as said products could neither be delivered to its destination nor returned back to the corporation. The products lying at police station is highly inflammable and explosive in nature and has to be preserved safely and cannot be allowed to remain exposed to natural factors.

8. In the facts and circumstances of present case and also in view of seized products being highly inflammable, explosive and perishable in nature, same is directed to be released in favour of petitioner in connection with Barauni Refinery P.S. Case No. 423 of 2019 (G.R. No. 3575 of 2019) dated 15.09.2019 on furnishing sufficient surety to the satisfaction of learned Sub-Divisional Judicial Magistrate, Begusarai which will be subject to outcome of the confiscation proceeding.

9. Accordingly, impugned order dated 27.11.2019/28.11.2019 passed by learned Sub-Divisional Judicial Magistrate, Begusarai is set aside and Cr. Misc. petition is allowed.