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**(2007) 12 OHC CK 0001**

**In the Orissa High Court**

**Case No : Criminal Miscellaneous No. 1786 of 2007**

Pramod Kumar Nayak

APPELLANT

Vs

Sadananda Jena

RESPONDENT

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**Date of Decision : 19-12-2007**

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 457  
Penal Code, 1860 (IPC) — Section 379

**Citation : (2008) CLT 325 (Suppl CrI)**

**Hon'ble Judges : L. Mohapatra, J**

**Bench : Single Bench**

**Advocate : R.K. Swain, B.K. Nayak, A. Sahoo, B.B. Behera and B. Mohanty, for the Appellant;**

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## **Judgement**

L. Mohapatra, J.—Heard Learned Counsel for the Petitioner and Learned Counsel for the State.

2. The Order Dated 26.5.2007 passed by the Learned S.D.J.M., Bhubaneswar in G.R. Case No. 298 of 2007 rejecting the application filed u/s 457 of the Code of Criminal Procedure for release of the vehicle bearing registration No. OR-05-7014 is under challenge.

3. The case of the Petitioner in the application filed u/s 457 of Code of Criminal Procedure is that one Sadananda Jena had taken loan from Mahindra Finance Company to purchase the said vehicle. He being not in a position to pay back the loan amount, entered into an agreement with the Petitioner on 30th December, 2004 and pursuant to execution of the agreement, the Petitioner paid rest of the installments due to the said Finance Company. Unfortunately, the vehicle was involved in commission of offence u/s 379 of the I.P.C. and was seized by the I.I.C. Laxmisagar Police Station. In the application, it was further stated that the vehicle having been seized from the possession of the Petitioner, he having entered into an agreement with the original owner and also having paid the installments of the Finance Company, the vehicle should be released in his

favour. The Learned Magistrate in the impugned order without discussing about the documents relied upon by the Petitioner rejected the same solely on the ground that the registered owner of the vehicle is one Sadananda Jena and not the Petitioner. It also appears that reference has been made to the agreement between Sadananda Jena and the Petitioner. From the recitals of the documents as well as cash receipts, it appear that the said registered owner Sadananda Jena entered into an agreement with the Petitioner for sale of the vehicle and pursuant to the said agreement, the Petitioner has also paid the installments to the Finance Company. There is no dispute that the vehicle had been seized from the possession of the Petitioner. Law is well settled that in an application u/s 457 Code of Criminal Procedure the Court may allow the seized vehicle to be released in favour of the person, who is entitled thereof.

4. Considering all the documents produced before the Trial Court, I am of the view that the Petitioner is entitled to possess the vehicle and more so when the original owner Sadananda Jena does not seek for release of the vehicle in his favour. I accordingly direct that the aforesaid vehicle be released on such terms and conditions as the Learned Magistrate may deem just and proper.

The Crl. MC is disposed of.