
(2010) 07 JH CK 0047
In the Jharkhand High Court

Radhe Shyam Barik

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 20-07-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 451

Citation : (2010) 4 JLJR 139

Hon'ble Judges : D.G.R. Patnaik, J

Bench : Single Bench

Judgement

D.G.R. Patnaik, J.—Heard counsel for the petitioner and counsel for the State.

2. Assailing the impugned order of the Additional Sessions Judge, Ghatsila dated 21.11.2008 passed in Criminal Revision No. 224/08 rejecting the criminal revision application filed by the petitioner against the order of the trial court by which the petitioner's prayer for release of his vehicle namely a Maxi Taxi bearing registration No. BR-16P-0229 was rejected; counsel for the petitioner submits that both the trial court as also the revisional court have committed serious error both on facts as well as on law in refusing to release the petitioner's vehicle.

3. Explaining the facts of the case, learned Counsel submits that the petitioner is the owner of the Maxi Taxi which is used for commercial purposes. The vehicle was seized by the police in connection with a case registered at the Ghatsila Police Station and the petitioner has been made accused in the said case only on the ground that he happens to be the owner of the vehicle. The vehicle was seized on the allegation that it was used for the purpose of ferrying the accused persons to the place of occurrence. Learned Counsel adds that the refusal of the petitioner's prayer for release of the vehicle has been made by the court below only on the ground that the petitioner could not produce the documents pertaining to the ownership of the vehicle, although the fact is that the petitioner did produce the copies of the ownership documents of the vehicle not only before the concerned police officer but also before the trial court. It is further submitted

that the petitioner has since been granted bail in the aforementioned case petitioner's vehicle being a commercial vehicle, the release of the vehicle cannot be refused without assigning any legally permissible grounds. In this context, learned counsel would refer to the provisions of Section 451 of the Cr.P.C.

4. Learned Counsel for the State, on the other hand, informs that the vehicle was seized in the case on the ground that it was used for unlawful purpose and the detention of the vehicle was perfectly justified.

5. From the facts stated as also from the rival submissions and from the impugned orders passed by the court below, it appears that admittedly except the petitioner, no other person has come forward to claim ownership of the seized vehicle. Admittedly, detention of the vehicle is not being made for the purpose of its confiscation under any law.

6. It is not disputed that the vehicle is a commercial vehicle and is permitted under license to carry passengers. The detention of the vehicle only on the ground that it was used for ferrying the accused persons of the case to and fro the place of occurrence, in itself does not justify the continuous detention of the vehicle or to subject the same to depreciation by exposing it in the open to sun and rain in the campus of the police station.

7. From the impugned order of the court below it appears that no specific reason has been assigned as to why despite the petitioner's claim of his being the owner of the vehicle and despite his producing the relevant documents in support of his claim of ownership, the prayer for release of the vehicle in his favour has been refused.

8. A catena of judgements, both the Supreme Court as also this Court, has declared that the trial court should consider the issue relating to disposal of seized articles which are valuable in nature, during the pendency of the trial. In the case of *Sunderbhai Ambalal Desai and C.M. Mudaliar Vs. State of Gujarat*, , the Supreme Court while explaining the scope and purpose of the provisions of Section 451 Cr.P.C. has also directed the trial courts to make an expeditious and judicious exercise of the powers of Section 451 Cr.P.C. particularly in respect of custody and disposal of valuable articles such as currency notes, vehicles, seized liquor and narcotic drugs. In respect of the seized vehicle the Court has observed that it is of no use to keep such seized vehicles at the police stations for a long period and it is for the Magistrate to pass appropriate orders immediately by taking appropriate bond/guarantee as well as security for return of the said vehicles, if required at any point of time.

9. Considering the entire facts and circumstances, it is directed that the vehicle seized in the case be released in favour of the petitioner on the petitioner's furnishing security amount of Rs. 3 lakhs with two sureties each of that amount, subject to the condition that the petitioner does produce the relevant documents of ownership of the vehicle to the satisfaction of the trial court.

Let this order be communicated to the court below through FAX at the cost of the petitioner.