

(2012) 11 PAT CK 0004

In the Patna High Court

Case No : Criminal Miscellaneous No. 17308 of 2011

Ranjeet Kumar

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 05-11-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 379, 385, 420, 427, 468

Citation : (2013) 2 PLJR 274

Hon'ble Judges : Shivaji Pandey, J

Bench : Single Bench

Advocate : Madhuresh Kumar, for the Appellant; Sunil Kumar Thakur for the Opp. Party No. 2 and Mr. Yogesh Kumar for the State, for the Respondent

Final Decision : Dismissed

Judgement

Shivaji Pandey, J.—Heard learned counsel for the petitioner and the State. In this case, petitioner is challenging the order dated 29th February, 2010 passed in Com. Case No. 653C of 2009 passed by the Chief Judicial Magistrate, Begusarai whereby and whereunder the Court has taken cognizance u/ss. 427, 379, 385, 468 and 420 IPC.

2. From the complaint petition it appears that the brother of the petitioner had purchased a bus bearing Regd. No. BR-11H/6024 and in July, 2005, accused Shamim Ahmad who was the then Officer In-charge of Mufassil Police Station, Begusarai without any rhyme and reason seized the vehicle and demanded Rs. 10,000/- for permitting the bus to ply on the road. The complainant requested him to release the bus as he had valid licence, the bus had not met with any accident and as such there was no justification for seizing of bus. After some time, Sri Ahmad was transferred and the petitioner took charge of the Police Station. Again the complainant approached the petitioner and requested for release of the bus but the petitioner demanded Rs. 40,000/- for the said purpose which the complainant refused to accede. It has further been alleged that on 20th February, 2009 in the morning, the complainant went to the Mufassil Police

Station where he did not find his bus and he could gather information that the bus was sold by the petitioner to co-accused, namely, Raj Kumar who was/is running Kabari shops. The complainant went to Kabari shop where he could locate his bus standing and found valuable parts of the bus were missing. The O.P. No. 2 approached the higher Police officials whereupon the Superintendent of Police, Begusarai himself reached at the P.O. and the said bus was salvaged from the Kabarikhana. The bus was brought back to the Police Station. When the O.P. No. 2 again visited the Police Station the complainant was kept in Hazat and forcibly they obtained the signature on the plain paper. The complaint case was registered and on the basis of evidence of witnesses and the report submitted by the Police, the court took cognizance.

3. Counsel for the petitioner submits that during the relevant period petitioner was not the Officer In-charge of the said Police Station and it was one Shamim Ahmad who had seized the vehicle so much so that the complainant could not produce the document showing his or his brother's ownership over the vehicle and, as such, the whole prosecution is completely malicious and it requires interference by this Court.

4. Counsel for the O.P. has drawn my attention to the report of the Deputy Superintendent of Police showing volumes about the petitioner. At the same time he has filed a supplementary affidavit showing ownership of the vehicle by his elder brother, namely, Hira Singh. From the record it does not shows that no prima facie case is made out rather there are ample material to show the involvement of the petitioner as during his period, vehicle was salvaged from the Kabarikhana. This Court is not deciding the case on merit and that will be decided by the trial court but the argument of the petitioner that no prima facie case is made out is not sustainable. Accordingly, this petition is dismissed.