

Tapan Kumar Vs. the State of Bihar and ors

Tapan Kumar Vs. the State of Bihar and ors

SooperKanoon Citation : sooperkanoon.com/974223

Court : Patna

Decided On : May-24-2012

Appellant : Tapan Kumar

Respondent : The State of Bihar and ors

Advocate for Pet/Ap. : Mr. Rajeev Roy

Judgement :

IN THE HIGH COURT OF JUDICATURE AT PATNA Criminal Revision No.1255 of 2011 Tapan Kumar Versus The State of Bihar & Ors. ----- 3.
24.01.2012 Mr. Rajeev Roy, learned counsel for the petitioner and learned A.C. to G.P. 26 for the State are present. This application is for release of the truck bearing Registration No. BR 1.F 971.lying in the custody of Barari (Zero Mile) Police Station, Bhagalpur. Earlier Misc. Case No. 7 of 2011 has been filed by the petitioner for release of vehicle in his favour since he was the person in whose name the vehicle was registered which was rejected by order dated 4.7.2011 by the Chief Judicial Magistrate, Bhagalpur. Learned counsel for the petitioner draws the attention of this Court to Annexure-1 which is the report of the Officer in-Charge of Barari Police Station in which it is stated that the truck was financed by Tata Motors Finance in his favour but because the petitioner defaulted in repayment of the installments, the truck was seized by them and for safety it has been kept in the police station for which the police has also given a receipt. Learned counsel for the 2 petitioner submits that this is a glaring example of high-handedness both by the private finance company as well as by the police. The

private finance company has absolutely no authority to seize the vehicle in question which can only be done in an appropriate proceeding by the order of the competent court. Learned counsel also submits that the police also do not have the authority to keep the vehicle in question in their custody on the request made by a private company. Learned counsel submits that both the private company as well as the police are hand-in-gloves with each other. This court prima facie finds force in the submissions of learned counsel for the petitioner. Let learned counsel for the petitioner add the Tata Motor Finance Limited as opposite party no.

2. Let notice be issued to the newly added opposite party no. 2 both under registered cover with A/D as well as under ordinary process for which requisites etc. must be filed by Friday. Let the office issue notice immediately. In the meantime, learned A.C. to G.P. 26 for the State shall also file a counter affidavit which has to be personally affirmed by the Senior 3 Superintendent of Police, Bhagalpur as to under what circumstances and what authority of law the Officer-in-Charge of Barari Police Station, Bhagalpur has kept the truck in question in his custody on the request of the Private Finance Company. List immediately upon service of notice among top 10 cases. (Ahsanuddin Amanullah, J.) Anand Kr.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com