

Manik Mochi vs The State Of Jharkhand on 21 September, 2012

Author: H.C.Mishra

Bench: H.C.Mishra

IN THE HIGH COURT OF JHARKHAND AT RANCHI

B.A No. 7110 of 2012

Md. Naim Ansari

.... Petitioner

-Versus-

The State of Jharkhand

..... Opposite Party

CORAM : HON'BLE MR. JUSTICE H.C.MISHRA

For the Petitioner :

: M/s. Vishal Kumar Tiwary

For the State :

: Mr. A.P.P.

02/ 21.09.2012

Heard learned counsel for the petitioner and the learned counsel for the State.

The petitioner has been made accused in connection with Khunti P.S. Case No.32 of 2012, corresponding to G.R. No. 110 of 2012, for the offence under Section 392 of the Indian Penal Code.

From the F.I.R. it appears that the case relates to robbery. In the facts of this case, I am inclined to release the petitioner on bail. Accordingly, the petitioner Md. Naim Ansari, is directed to be released on bail, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned A.C.J.M., Khunti, in connection with Khunti P.S. Case No.32 of 2012, corresponding to G.R. No. 110 of 2012.

(H.C.Mishra, J.) D.S. IN THE HIGH COURT OF JHARKHAND AT RANCHI

Manoj Raut

.... Petitioner

-Versus-

The State of Jharkhand

..... Opposite Party

CORAM : HON'BLE MR. JUSTICE H.C.MISHRA

For the Petitioner :

: M/s. Sudhansu Kumar Deo

For the State :

: Mr. A.P.P.

02/ 21.09.2012

Heard learned counsel for the petitioner and the learned counsel for State.

The petitioner has been made accused in connection with Madhu (W.B.) P.S. Case No.123 of 2012, corresponding to G.R. No. 1375 of 2012, for the offence under Sections 380, 457, 411 of the Indian Penal Code.

From the F.I.R. it appears that the case relates to theft in a quarter and the petitioner was apprehended with stolen articles.

In the facts of this case, I am inclined to release the petitioner on bail. Accordingly, the petitioner Manoj Raut, is directed to be released on bail, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Hazaribag, in connection with Madhu (W.B.) P.S. Case No.123 of 2012, corresponding to G.R. No. 1375 of 2012.

(H.C.Mishra, J.) D.S. IN THE HIGH COURT OF JHARKHAND AT RANCHI

Ajit Kumar Singh		.... Petitioner
	-Versus-	
The State of Jharkhand		..... Opposite Party

CORAM :	HON'BLE MR. JUSTICE H.C.MISHRA	

For the Petitioner :	M/s. Rajesh Kumar Singh	
For the State :	Mr. A.P.P.	

02/ 21.09.2012 Heard learned counsel for the petitioner and the learned counsel for State.

The petitioner has been made accused in connection with Ramgarh P.S. Case No.145 of 2012, corresponding to G.R. No. 1752 of 2012, for the offence under Sections 399 / 402 of the Indian Penal Code and Sections 25(1-B)(a), 26 / 35 of the Arms Act.

From the F.I.R. it appears that the petitioner was apprehended alongwith other co-accused persons. It also appears that the fire arms were recovered from the possession of other co-accused persons and not from the possession of this petitioner.

In the facts of this case, I am inclined to release the petitioner on bail. Accordingly, the petitioner Ajit Kumar Singh, is directed to be released on bail, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Hazaribag, in connection with Ramgarh P.S. Case No.145 of 2012, corresponding to G.R. No. 1752 of 2012.

(H.C.Mishra, J.) D.S. IN THE HIGH COURT OF JHARKHAND AT RANCHI

Amjad Khan		.... Petitioner
	-Versus-	
The State of Jharkhand		..... Opposite Party

CORAM :	HON'BLE MR. JUSTICE H.C.MISHRA	

For the Petitioner :		: M/s.Shildhar Krishna Murthy
For the State :		: Mr. A.P.P.

02/ 21.09.2012 Heard learned counsel for the petitioner and the learned counsel for the State.

The petitioner has been made accused in connection with Bagodar P.S. Case No.153 of 2012, corresponding to G.R. No. 1235 of 2012, for the offence under Sections 399 / 402 of the Indian Penal Code and Sections 25(1-B)(a)/ 26 / 35 of the Arms Act.

From the F.I.R. it appears that the petitioner was apprehended alongwith other co-accused persons. It also appears that the fire arms were recovered from the possession of other co-accused persons and not from the possession of this petitioner.

In the facts of this case, I am inclined to release the petitioner on bail. Accordingly, the petitioner Amjad Khan, is directed to be released on bail, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Giridih, in connection with Bagodar P.S. Case No.153 of 2012, corresponding to G.R. No. 1235 of 2012.

(H.C.Mishra, J.) D.S. IN THE HIGH COURT OF JHARKHAND AT RANCHI

Ashok Kumar Mehta		.... Petitioner
	-Versus-	
The State of Jharkhand		..... Opposite Party

CORAM :	HON'BLE MR. JUSTICE H.C.MISHRA	

For the Petitioner :		: M/s. Shailendra Jit
For the State :		: Mr. A.P.P.

02/ 21.09.2012 Heard learned counsel for the petitioner and the learned counsel for the State.

The petitioner has been made accused in connection with Sadar P.S. Case No.162 of 2001, corresponding to G.R. No. 729 of 2001, for the offence under Sections 395 / 397 of the Indian Penal

Code.

The case relates to dacoity in the house of the informant. It also appears that one of the culprits was apprehended and he disclosed the names of the other co-accused who had managed to flee away, including that of this petitioner. The impugned order shows that the petitioner was not put on T.I.P. In the facts of this case, I am inclined to release the petitioner on bail. Accordingly, the petitioner Ashok Kumar Mehta, is directed to be released on bail, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Hazaribag, in connection with Sadar P.S. Case No.162 of 2001, corresponding to G.R. No. 729 of 2001.

(H.C.Mishra, J.) D.S. IN THE HIGH COURT OF JHARKHAND AT RANCHI

Pradeep Pandey @ Pradip Pandey @ Pradip Kumar Pandey Petitioner

-Versus-

The State of Jharkhand Opposite Party

CORAM : HON'BLE MR. JUSTICE H.C.MISHRA

For the Petitioner :	: M/s. Amit Kumar Das
For the State :	: Mr. A.P.P.

02/ 21.09.2012 Heard learned counsel for the petitioner and the learned counsel for the State.

The petitioner has been made accused in connection

Dhalbhumgarh P.S. Case No.19 of 2012, corresponding to G.R. No. 243 of 2012, for the offence under Section 387 of the Indian Penal Code.

Though it is alleged in the F.I.R. that the petitioner had gone to the Fair Price Shop of the informant for demanding levy, but the impugned order shows that prior to the institution of this case the petitioner along with the co- villagers had reported against the bungling of the food grains made in the Fair Price Shop of the informant.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in this case due to fact that the petitioner had made allegations against the informant before the

Marketing Officer.

In the facts of this case, I am inclined to release the petitioner on bail. Accordingly, the petitioner Pradeep Pandey @ Pradip Pandey @ Pradip Kumar Pandey, is directed to be released on bail, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, Ghatsila, in connection with Dhalbhumgarh P.S. Case No.19 of 2012, corresponding to G.R. No. 243 of 2012.

(H.C.Mishra, J.) D.S. IN THE HIGH COURT OF JHARKHAND AT RANCHI

Bir Singh Munda		.... Petitioner
	-Versus-	
The State of Jharkhand		..... Opposite Party

CORAM :	HON'BLE MR. JUSTICE H.C.MISHRA	

For the Petitioner :	M/s. Nilesch Kumar	
For the State :	Mr. A.P.P.	

02/ 21.09.2012 Heard learned counsel for the petitioner and the learned counsel for the State.

The petitioner has been made accused in connection with Tamar P.S. Case No.07 of 2012, corresponding to G.R. No. 336 of 2012, for the offence under Sections 302 / 201/ 34 of the Indian Penal Code.

The case relates to death of the son of the informant, whose dead body was subsequently recovered in a decomposed state.

From the F.I.R. as well as the impugned order, It is apparent that the petitioner has been made accused in this case on the basis of suspicion.

In the facts of this case, I am inclined to release the petitioner on bail. Accordingly, the petitioner Bir Singh Munda, is directed to be released on bail, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Sri Chandan, learned Judicial Magistrate, Ranchi, or his successor, in connection with Tamar P.S. Case No.07 of 2012, corresponding to G.R. No. 336 of 2012.

(H.C.Mishra, J.) D.S. IN THE HIGH COURT OF JHARKHAND AT RANCHI

1. Upendra Singh @ Upendra Kumar Singh

2. Vijay Turi Petitioners

-Versus-

The State of Jharkhand Opposite Party

CORAM : HON'BLE MR. JUSTICE H.C.MISHRA

For the Petitioners :	: M/s. Pravin Kumar Pandey
For the State :	: Mr. A.P.P.

02/ 21.09.2012 Heard learned counsel for the petitioners and the learned counsel for the State.

The petitioners have been made accused in connection with Chiniya P.S. Case No.07 of 2012, corresponding to G.R. No. 458 of 2012, for the offence under Sections 25(1-B)(a), 26/35 of the Arms Act & Section 17 of the Criminal Law (Amendment) Act.

From the F.I.R. it appears that the petitioners were apprehended on 21.03.2012 on the basis of the confessional statement given by other apprehended co-accused persons and it also appears that from the personal possession of the petitioner no recovery was made. It also appears that other co-accused persons were also apprehended and on the basis of the confessional statements of the accused persons arms and ammunitions were recovered. The accused persons admitted their connection with the extremists group.

In the facts of this case, I am inclined to release the petitioners on bail. Accordingly, the petitioners Upendra Singh @ Upendra Kumar Singh & Vijay Turi, are directed to be released on bail, on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of Additional Chief Judicial Magistrate at Garhwa, in connection with Chiniya P.S. Case No.07 of 2012, corresponding to G.R. No. 458 of 2012.

(H.C.Mishra, J.) D.S. IN THE HIGH COURT OF JHARKHAND AT RANCHI

Santosh Prasad Yadav @ Santosh Yadav Petitioner

-Versus-

The State of Jharkhand Opposite Party

CORAM : HON'BLE MR. JUSTICE H.C.MISHRA

For the Petitioner : : M/s. Rashmi Kumari
For the State : : Mr. A.P.P.

2/ 21.09.2012 Heard learned counsel for the petitioner and the learned counsel for the State.

The petitioner has been made accused in connection with Satgawan P.S Case No.31 of 2010, corresponding to G.R No. 351 of 2010, S.T. No. 127 of 2010, for the offence under Sections 302/ 201/ 376 of the Indian Penal Code.

From the F.I.R. it appears that the dead body of the deceased was found and it was found that rape was committed on the deceased and she was murdered. The petitioner has been made accused in this case as it was informed by the daughter of the deceased that one day prior to the occurrence the deceased had gone along with this petitioner to bring her son from the school.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in this case.

Learned counsel for the State on the other hand has drawn the attention of this Court towards the case diary to show that the blood and semen stained clothes of the petitioner were recovered from the house of the petitioner and there is report of forensic science laboratory suggesting the implication of the petitioner on the basis of the stains found on the clothes of the petitioner as also on the under garments of the deceased.

In the facts of this case, I am not inclined to release the petitioner on bail. Accordingly, the prayer for bail of the petitioner Santosh Prasad Yadav @ Santosh Yadav, is hereby rejected.

(H.C.Mishra, J.) D.S. IN THE HIGH COURT OF JHARKHAND AT RANCHI

Madhu Gope Petitioner
-Versus-
The State of Jharkhand Opposite Party

CORAM : HON'BLE MR. JUSTICE H.C.MISHRA

For the Petitioner : : M/s. Rajan Raj
For the State : : Mr. A.P.P.

2/ 21.09.2012

Heard learned counsel for the petitioner and the learned counsel for the State.

The petitioner has been made accused in connection with G.R.P.S Dhanbad Case No.69 of 2010, corresponding to G.R No. 116 of 2010, S.T. No. 574 of 2010, for the offence under Sections 304(B) of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act and alternatively section 302 of the Indian Penal Code.

The petitioner is the father-in-law of the deceased and in view of the nature of allegation against him for subjecting the deceased to cruelty and torture for demand of dowry and committing dowry death, the bail application of this petitioner was earlier rejected twice on merits vide order dated 05.01.2011 in B.A. No. 7022 of 2010 and vide order dated 05.12.2011 in B.A. No. 5629 of 2011.

Learned counsel for the petitioner has renewed the prayer for bail. In the facts of this case, I am not inclined to release the petitioner on bail. Accordingly, the prayer for bail of the petitioner Madhu Gope, is hereby rejected.

(H.C.Mishra, J.) D.S. IN THE HIGH COURT OF JHARKHAND AT RANCHI

Tapan Das

.... Petitioner

-Versus-

The State of Jharkhand

..... Opposite Party

CORAM : HON'BLE MR. JUSTICE H.C.MISHRA

For the Petitioner :

: M/s. Satyajit Bakshi

For the State :

: Mr. A.P.P.

2/ 21.09.2012

Heard learned counsel for the petitioner and the learned counsel for the State.

The petitioner has been made accused in connection with Chakulia P.S. Case No.32 of 2011, corresponding to G.R No. 229 of 2011, for the offence under Sections 302/ 307/ 379/ 34 of the Indian Penal Code.

From the F.I.R. it appears that the case relates to murder of one Madan Mohan Kisku who was going in a vehicle and the driver of the deceased was also injured in the occurrence. The petitioner is not named in the F.I.R., but the case diary shows that the petitioner was apprehended and put on T.I.P. and he has been identified by the injured driver, to be the person who had murdered the deceased.

In the facts of this case, I am not inclined to release the petitioner on bail. Accordingly, the prayer for bail of the petitioner Tapan Das, is hereby rejected.

(H.C.Mishra, J.) D.S. IN THE HIGH COURT OF JHARKHAND AT RANCHI

Gunadhar Paul		.... Petitioner
	-Versus-	
The State of Jharkhand		..... Opposite Party

CORAM :	HON'BLE MR. JUSTICE H.C.MISHRA	

For the Petitioner :	M/s. R.P.Mukherjee	
For the State :	Mr. A.P.P.	

2/ 21.09.2012 Heard learned counsel for the petitioner and the learned counsel for State.

The petitioner has been made accused in connection with Mosabani P.S. Case No.16 of 2010, corresponding to G.R No. 81 of 2010, S.T. Case No. 247 of 2010, for the offence under Sections 302/ 34 of the Indian Penal Code.

The case relates to murder of the husband of the informant and the informant is the eye witness to the occurrence. There is direct allegation against the petitioner to have assaulted the deceased causing his death at the spot.

In the facts of this case, I am not inclined to release the petitioner on bail. Accordingly, the prayer for bail of the petitioner Gunadhar Paul, is hereby rejected.

(H.C.Mishra, J.) D.S. IN THE HIGH COURT OF JHARKHAND AT RANCHI

Manik Mochi		.... Petitioner
	-Versus-	
The State of Jharkhand		..... Opposite Party

CORAM :	HON'BLE MR. JUSTICE H.C.MISHRA	

For the Petitioner :	M/s. Prabir Kumar Chatterjee	
For the State :	Mr. A.P.P.	

2/ 21.09.2012 Heard learned counsel for the petitioner and the learned counsel for State.

The petitioner has been made accused in connection with Jharia (Alakdiha) P.S. Case No.418 of 2011, corresponding to G.R No. 3646 of 2011, S.T. Case No. 211 of 2012, for the offence under Sections 302/ 34 of the Indian Penal Code.

The case relates to murder of the husband of the informant, who was taken away by this petitioner for taking liquor. As a torch was recovered near the dead body, which was identified to be that of the petitioner, the bail application of this petitioner was earlier rejected vide order dated 25.1.2012 in B.A. No. 9509 of 2011.

Learned counsel for the petitioner has renewed the prayer for bail. In the facts of this case, I am not inclined to release the petitioner on bail. Accordingly, the prayer for bail of the petitioner Manik Mochi, is hereby rejected.

(H.C.Mishra, J.) D.S. IN THE HIGH COURT OF JHARKHAND AT RANCHI

Anil Kumar Yadav @ Anil Yadav Petitioner

-Versus-

The State of Jharkhand Opposite Party

CORAM : HON'BLE MR. JUSTICE H.C.MISHRA

For the Petitioner :	: M/s. A.K.Kashyap, Sr. Advocate
For the State :	: Mr. A.P.P.

2/ 21.09.2012 Heard learned counsel for the petitioner and the learned counsel for State.

The petitioner has been made accused in connection with Mohanpur P.S. Case No.101 of 2011, corresponding to G.R No. 395 of 2011, S.C. No. 244 of 2011, for the offence under Sections 147/ 149/ 341/ 323/ 307/ 504/ 120B and 302 of the Indian Penal Code.

In view of direct allegation against the petitioner to have assaulted the deceased due to which the deceased died, the bail application of this petitioner was earlier rejected vide order dated 21.12.2011 in B.A. No. 7875 of 2011.

Learned counsel for the petitioner has renewed the prayer for bail. In the facts of this case, I am not inclined to release the petitioner on bail. Accordingly, the prayer for bail of the petitioner Anil Kumar Yadav @ Anil Yadav, is hereby rejected.

(H.C.Mishra, J.) D.S. IN THE HIGH COURT OF JHARKHAND AT RANCHI

Dhena Marandi & Ors. Petitioners

-Versus-

The State of Jharkhand Opposite Party

CORAM : HON'BLE MR. JUSTICE H.C.MISHRA

For the Petitioners : : M/s. Ram Lakhan Yadav
For the State : : Mr. A.P.P.

2/ 21.09.2012 Learned counsel for the petitioner is directed to file the fresh true copy of the F.I.R..

Let this matter be listed in the next week, by that time the legible and true typed copy of the F.I.R. should be brought on record.

(H.C.Mishra, J.) D.S. IN THE HIGH COURT OF JHARKHAND AT RANCHI

Nasir Sheikh Petitioner

-Versus-

1. The State of Jharkhand
2. Sukrali Sheikh
3. Jumarati Sheikh

..... Opposite Parties

CORAM : HON'BLE MR. JUSTICE H.C.MISHRA

For the Petitioner: : M/s. V.P.Singh
For the State: : Mr. A.P.P.

04/ 21.09.2012. No one appears for the petitioner in spite of repeated calls. Learned counsels for the State as also for private opposite parties are present. On the earlier occasion also, no one had appeared for the petitioner in spite of repeated calls, as such the case was adjourned for giving an opportunity to the learned counsel. Today also no one has appeared for the petitioner in spite of repeated calls. As such, I have gone through the record.

This revision application is directed against the order dated 09.02.2005 passed by Sri Krishna Murari Gupta, learned Additional Sessions Judge, Fast Track Court-II, Garhwa, in Criminal Rev. No. 189 of 2001, whereby the Court below allowed the revision, giving discretion to the Court of S.D.M. Garhwa to pass necessary orders by invoking or exercising the power u/s 311 of the Cr.P.C.

It appears from the impugned order that a proceeding u/s 145 Cr.P.C. was going on between the parties in the Court of S.D.M., Garhwa, in Misc. Case No. 173 of 1997 and an order was passed on 29.11.2011, asking the Notary Public to appear before the Court on 05.12.2001 with the affidavit register.

The said order was challenged in the Revisional Court below and the Court below found that the said order was not passed in exercise of the power u/s 311 of the Cr.P.C. The Court below also took into consideration the fact that such applications were filed earlier, which were rejected by the S.D.M. Garhwa. The Revisional Court below allowed the revision application and set aside the impugned order, but gave the option to the learned S.D.M., Garhwa to invoke the power u/s 311 of the Cr.P.C. if the evidence of the Notary Public appeared to be essential for just decision of the case and with this observation the Criminal Revision was allowed.

I do not find any illegality and / or irregularity in the impugned order, worth interference in the revisional jurisdiction. There is no merit in this application, which is accordingly, dismissed. Let the Lower Court Record be sent back forthwith.

(H.C.Mishra, J.) D.S. IN THE HIGH COURT OF JHARKHAND AT RANCHI

Ramesh Singh @ Ramesh Kumar Singh Petitioner

-Versus-

The State of Jharkhand Opposite Party

CORAM : HON'BLE MR. JUSTICE H.C.MISHRA

For the Petitioner:	: M/s. J.Mazumdar
For the State:	: M/s. A.P.P.

02/ 21.09.2012. Heard learned counsel for the petitioner and the learned counsel for the State.

The petitioner is aggrieved by the order dated 23.01.2012 passed by Sri K. K. Jha, learned Judicial Magistrate, Dhanbad, in Chirkunda P.S. Case No. 96 of 2011, corresponding to G.R. Case No. 1693 of 2011, whereby the Court below has rejected the application filed by the petitioner for release of the seized iron scrap in connection with this case in favour of the petitioner.

The impugned order shows that the petitioner had produced the documents with respect to the purchase of the iron scrap on which a report was called for from the concerned police station. The Court below however, upon getting the report of the concerned police station, opined that the Investigating Officer had not verified the genuineness of the documents though the Investigating Officer had stated that on the basis of the cash memo produced by the accused petitioner it had transpired that the petitioner had purchased the iron scrap from the dealers.

In view of the fact that the said report was not given by the Investigating Officer after verifying the genuineness of the documents of the seized iron scrap, the Court below ought to have directed the Investigating Officer to submit the report after proper verification about the genuineness of the documents and to have disposed of the application upon getting the report.

As such, the impugned order dated 23.01.2012 passed by Sri K. K. Jha, learned Judicial Magistrate, Dhanbad, in Chirkunda P.S. Case No. 96 of 2011, corresponding to G.R. Case No. 1693 of 2011, is hereby, set aside and it is directed that the Court below shall direct the Officer Incharge of the police station to submit the report after proper verification of the documents produced by the petitioner and the Court below shall pass the order afresh upon getting the verification report from the police station.

This revision application is accordingly, allowed with the directions as above.

(H.C.Mishra, J.) D.S. IN THE HIGH COURT OF JHARKHAND AT RANCHI

Shambhu Nath Agarwal Petitioner

-Versus-

The State of Jharkhand Opposite Party

CORAM : HON'BLE MR. JUSTICE H.C.MISHRA

For the Petitioner: : M/s.A.K.Chaturvedi For the State: : M/s. Ravi Prakash, A.P.P.

02/ 21.09.2012. Heard learned counsel for the petitioner and the learned counsel for the State.

The petitioner is aggrieved by the order dated 20.9.2011 passed by the learned Sub-Divisional Judicial Magistrate, Simdega, in Simdega P.S. Case No. 17 of 2005, corresponding to G.R. No. 58 of 2005, whereby the application filed by the petitioner for release of the truck in question in favour of the petitioner was rejected by the Court below stating that no document was produced by the petitioner with respect to the seized truck.

It appears that the a truck was seized by the police, as it was found with 225 bags of wheat and Simdega P.S. Case No. 17 of 2005, corresponding to G.R. No. 58 of 2005 was registered for the offence u/s 414, 120(B) of the Indian Penal Code and Section 7 of the Essential Commodities Act. The son of the petitioner was also made accused in the case.

It appears from the impugned order that a confiscation proceeding with respect to the truck in question was initiated and the truck was confiscated by the order of the D.C. Simdega. The said confiscation of the truck was challenged before the Sessions Judge Simdega, and the confiscation of the truck was set aside. It also appears from the impugned order that the order taking cognizance was also challenged by the son of the petitioner, who was an accused in the case, and the order taking cognizance was also set aside and the case has been dropped against the son of the petitioner.

The petitioner, claiming himself to be the owner of the truck, filed the application for the release of the truck in question stating that the original documents were seized along with the truck and he had no documents left with him. His application was rejected by the Court below by the impugned order dated 20.9.2011.

Learned counsel for the petitioner had drawn the attention of this Court towards Annexure-5, which appears to be the copy of a report called for by the Officer Incharge of Simdega Police Station, mentioning that there was no document with respect to the truck in question and asking the District Transport Officer, Ranchi, to report about the ownership of the truck and it appears that the District Transport Officer, Ranchi, had reported that the truck belonged to the petitioner. However, it appears that this document has also not been discussed in the impugned order.

In view of the fact that the original documents of the truck are not available, in the peculiar facts of this case, I am of the considered view that the Court below should have taken into consideration the report of the District Transport Officer, Ranchi, if any, available on the record, or ought to have called for a fresh report from the District Transport Officer, Ranchi, and to have passed the appropriate order in accordance with law. It goes without saying that if the ownership of the truck is found to be with the petitioner, the truck should be released in favour of the petitioner, as the criminal case as well as the confiscation proceeding, have already been dropped.

With these directions, the impugned order dated 20.9.2011 passed by the learned Sub-Divisional Judicial Magistrate, Simdega, in Simdega P.S. Case No. 17 of 2005, corresponding to G.R. No. 58 of

2005, is hereby set aside and the Court below is directed to pass the order afresh in view of the directions as above. This revision application is accordingly, allowed with the directions as above.

(H.C.Mishra, J.) D.S.