

M.Cr.C. No.15049/2011

31/01/2012

Shri Manish Datt, Advocate for the applicant.

Shri R.P.Tiwari, Public Prosecutor for respondent No.1/State.

With the consent of learned counsel for the parties, the matter is finally heard.

The applicant has filed the instant application under Section 482 of Cr.P.C. against the order dated 3.9.2011 passed by the Judicial Magistrate First Class, Bijawar District Chhattarpur by which the application filed under Sections 451 and 457 of Cr.P.C. by the applicant for releasing of his vehicle Tata Indigo was dismissed.

After considering the submissions made by learned counsel for the parties, it appears that some silver was found in the vehicle Tata Indigo bearing registration No.MP16C-4601. Initially the police has registered the case under Sections 41/102 of Cr.P.C. and Section 379 of IPC. Thereafter no complainant was found for the offence punishable under Section 379 of IPC, and therefore a case was registered under Section 403 of IPC. Silver was not found at any place by anyone, and therefore prima facie offence under Section 403 of IPC may not constitute. At present there is no case pending before the police by which the vehicle in which

silver was being transported can be confiscated. The applicant is a registered owner as per the registration certificate submitted before this Court. He is also a tax payer. In such circumstances, the vehicle in question could be given to the applicant on *Supurdginama*. The learned JMFC vide order dated 3.9.2011 has erred in rejecting the application of the applicant.

Consequently, the present application under Section 482 of Cr.P.C. is allowed and the order dated 3.9.2011 passed by the JMFC, Bijawar is hereby set aside. It is directed that the vehicle Tata Indigo No.MP16C-4601 be given to the applicant on *Supurdginama* with its documents, if he furnishes *Supurdginama* bond in sum of Rs.3.5 lakhs with one solvent surety of the same amount to the satisfaction of JMFC Bijawar that as and when vehicle in question is demanded, he shall produce the same before the concerned police station or JMFC on his own expenses. If vehicle is required by the Income Tax Department, then he shall also produce the same before that department. No appearance of the vehicle will be changed and it will not be disposed off in any manner without seeking due permission from the JMFC, Bijawar.

(N.K.Gupta)
Judge

Ansari