

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.490 of 1990

Arising out of PS.Case No.-248 Year- 1990 Thana- Bettiah Town District- Bettiah

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- 1.M/s Ramji Prasad Sah, a partnership firm situated in the town of Bettiah, P.S.- Kotwali, District-Bettiah
 2. Krishna Kumar Prasad
 - 3.Vijoy Kumar Prasad
 - 4.Ajay Kumar Prasad

Petitioner nos.2 to 4 are sons of Ramji Prasad Sah

All partners of M/s Ramji Prasad Sah,

Petitioner no.1, resident of Mohalla- Ujain Tola in the town of Bettiah, P.S.- Kotwali, District- Bettiah

.... Petitioner/s

Versus

- 1.The State of Bihar
- 2.The Deputy Superintending (Food), Bettiah
- 3.The Investigating Officer, P.S.-Kotwali, District- Bettiah

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mithilesh Pandey, Advocate

: Mr. M.Chatterjee, Advocate

For the Respondent/s : Mr. S.C.-4

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 16-01-2015

Yesterday, on repeated calls, none appeared to press the application. Even today, none appears either on behalf of the petitioners or on behalf of the State.

2. It is twenty five years old matter. Perused the records. By filing an application under Articles 226 and 227 of the Constitution of India, the petitioners have prayed for quashing of the FIR of Bettiah Town P.S. Case No.248 of 1990 dated 8th September, 1990 registered for the offence punishable under section 7 of the Essential Commodities Act.



3. The prosecution case is that on receipt of a confidential information regarding sale of Kerosene oil in black market by the petitioners on 8th September, 1990 at 2 p.m. the Deputy Superintendent (Food), Bettiah inspected the godown of the petitioners' firm which is situated at Banu Chapar near Station Gumti, Bettiah and found the opening stock of Kerosene oil to the extent of 4685 litres which was displayed on the Board. It was also found that 2569 litres of Kerosene oil were sold to the six retail dealers on 8th September, 1990. Under such circumstance, the remaining stock ought to have been 2116 litres of Kerosene oil but on physical verification about 4685 litres of Kerosene oil contained in 23 drums each were found stocked in the godown. Though the godown was not locked but the guard of the godown was not found present at the time of inspection. An employee of the firm, namely, Chhote Lal disclosed that the guard on duty might have gone somewhere. He also told that the purchasers of Kerosene oil could not lift the stock till the time of inspection on 8th September, 1990 as a result of which discrepancy in the stock was found. The informant suspected and alleged that fictitious sale of 2569 Kerosene oil was shown in the sale register in order to sell Kerosene oil in black market. Apart from the above, the informant noticed certain other discrepancies also in the stock register.

4. This case was admitted for hearing on 7th November,

1990. The order dated 7th November, 1990 passed by this Court reads as under:

“This petition will be heard.

No notice need issue to the respondents, as learned counsel for the State represented all the respondents. Let two more copies of the petition be served upon him within a week. Call for the L.C.R.

However, taking of cognizance if so arises, shall remain stayed till the decision of this case.”

5. It would appear from the record that the investigation of the case continued and on conclusion of investigation charge-sheet bearing no.110 of 1994 dated 19th May, 1994 has already been submitted in the court concerned. From bare perusal of the FIR, it cannot be said that no cognizable offence is made out. In that view of the matter, the first information report cannot be quashed. Moreover, having regard to the fact that the investigation of the case is complete and the police report has already been submitted under section 173(2) of the Code of Criminal Procedure in the court of Magistrate, it is for the Magistrate to consider the same and pass appropriate orders in accordance with law.

6. In that view of the matter, I find no reason to interfere with the FIR in question. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

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