

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.2075 of 2015

Arising Out of PS.Case No. -1 Year- 2011 Thana -ECONOMIC OFFENCE District-
MUZAFFARPUR

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Nilu Singh son of Shiv Kumar Singh, resident of village- Nargada, P.S.- Krishna
Garh, Barhara, District- Bhojpur

.... Petitioner

Versus

1. The Union of India
2. Shivendra Satyarthi Intelligence Officer, Directorate of Revenue Intelligence
(DRI), Sub-Regional Unit (SRV), Muzaffarpur.

.... Opposite Parties.

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Appearance :

For the Petitioner/s : Mr. Ramakant Sharma, Sr. Adv.

Mr. Madan Jeet Kumar, Adv.

For the Opposite Party/s : Mr. Manoj Kumar Singh, CGC.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 17-09-2015

The present application under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.') is directed against the order dated 2.9.2014 passed by the 6th Additional Sessions Judge, Muzaffarpur in DRI 1/ 2011/ Tr. No. 1 / 2013 whereby the application filed on behalf of the petitioner under Section 227 Cr.P.C. for discharge from the proceeding has been rejected.

2. The petitioner is being prosecuted in the aforesaid complaint case registered under Section 8(c) of Narcotic Drugs and

Psychotropic Substances Act, 1985 (for short 'NDPS Act') punishable under Sections 20, 25 and 29 of the said Act.

3. According to the prosecution case, there was a specific intelligence regarding smuggling of huge quantity of Ganja concealed and transported by Truck bearing Registration No. WB-23 B-1771, from Assam to Varanasi via Tajpur (Samastipur) and the said intelligence was passed into the Directorate of Revenue Intelligence, Patna (for short 'DRI') on 25.2.2011 and as per direction, DRI officials of Patna and Muzaffarpur mounted the surveillance on Barauni-Tajpur-Muzaffarpur/Hajipur Section. As a result of strict vigil, the DRI officers of Muzaffarpur, who were present near Tajpur Chowk, intercepted the informed truck bearing registration No. WB-23 B-1771 coming from Barauni side on 26.2.2011 at about 16.00 hrs in presence of two independent witnesses near Tajpur Chowk at N. H.-28. On inquiry two occupants of the vehicle disclosed their identity as Babloo Kumar, son of Shri Tribhuvan Singh and Munna Kumar Singh son of Shri Nand Kumar Singh and stated that Turmeric is loaded in the said truck and on further inquiry they denied the loading of Ganja in the said vehicle. The jute bags loaded on the said truck was examined in presence of independent witnesses and the said two occupants and it was found that bundles were concealed in some of the jute bags of raw turmeric and smelled like narcotic substance.



On further examination, it was found that Ganja, which was kept, was wrapped with newspaper and polythene sheets along with turmeric. In all, 254 bags of jute were recovered from the said truck. Out of that 186 jute bags contained one packet each of Ganja concealed with raw turmeric and rest 68 bags contained raw turmeric only. On weighment of 186 packets of Ganja it was found as 2930 kgs, whereas, the weight of raw turmeric was found as 10500 kgs. The said Ganja and turmeric were seized in presence of two witnesses. During further inquiry, it transpired that the petitioner Nilu Singh was the owner of the truck, in question.

4. The statement of Babloo Kumar was recorded by the DRI officials under Section 67 of the NDPS Act wherein he disclosed that the petitioner Nilu Singh having Mobile No. 9576642280 is the owner of the said truck and as per his direction he along with the driver reached Garam Pani near Golaghat (Assam). He further disclosed that said narcotic substance was loaded by one Pradip Kumar Gogoi having Mobile NO. 07896703325 and the said narcotic substance was consigned for M/s Rajesh Trading Co., Varanasi (U.P.) as per direction of the petitioner. He further disclosed that he is cousin of the petitioner Nilu Singh.

5. The complainant has alleged that the petitioner was the main person behind entire transaction. He was in constant touch on

regular intervals with Babloo Kumar and he actively participated in the smuggling of the said narcotic substance.

6. At the stage of framing of charge, an application under Section 227 Cr.P.C. was filed on behalf of the petitioner seeking discharge from the prosecution. The said application was rejected by the court below by a reasoned order on 2.9.2014, which is as under:-

“2. Perused the record it has been alleged that on the basis of specific intelligence the D.R.I. Officer, Muzaffarpur seized a truck WB-23D-1771 near Tajpur Chowk at NH-28 on 26.2.2011 at about 4.00 p.m. and on search being made 2930 Kg. (186 packets) of ganja, 254 bags of raw turmeric was recovered from the said truck and the co-accused Bablu Kumar and Munna Kumar were arrested from the said truck, that the said co-accused Bablu Kumar and Munna Kumar in their statement under Section 67 N.D.P.S. Act had disclosed that Nilu Singh is the owner of the said truck and as per direction of the Nilu Singh they had gone to Gram Pani near Gola Ghat, Assam where the narcotics substance was loaded by one Pradeep Kumar Gangooe which was being transported to M/s Rajesh Trading Company, Varanasi as per the direction of the Nilu Singh.

3. The truck in question WB-23D-1771 belongs to the Nilu Singh and it was registered at Kolkata on a false address of Nilu Singh. It is material to note that the co-accused Bablu Kumar who was arrested from the said truck is the cousin of the Nilu Singh. The Bablu Kumar and Munna Kumar (the driver of the said truck) had admitted in their statement under Sections 67 NDPS



Act that the Nilu Singh is the owner of the said truck and as per direction of the Nilu Singh they had gone to Gram Pani near Gola Ghat Assam where the narcotics substance was loaded by one Pradeep Kumar Gangooe in the truck and the same was being carried to M/s Rajesh Trading Company, Varanasi as per direction of Nilu Singh. It also appears from the follow up action that the Bablu Kumar and Nilu Singh were in constant touch on regular intervals through mobile.”

7. Assailing the aforesaid order dated 2.9.2014, learned counsel for the petitioner has submitted that simply because the petitioner happens to be the owner of the vehicle, he has been implicated in this case. He submits that once the vehicle was in transit, the owner had lost control over it. Admittedly, when the contraband was seized, the petitioner was not occupying the truck. He further submits that the complainant who is an Intelligence Officer of DRI, Muzaffapur has adopted an apathetic view while instituting the complaint. He has let off the transporter Pradip Kumar Gogoi who had booked the consignment and Jageshwar Manjhi in whose name the sim-card of the mobile was issued. He further submits that the petitioner has a clean antecedent and because of his implication in the present false case, he would have to face with extreme hardship.

8. On the other hand, learned counsel for Union of India has submitted that there is no error in the order passed by the Court



below whereby the application of the petitioner seeking discharge from prosecution in the aforesaid complaint case has been rejected. He submits that the occupant of truck in question, namely, Babloo Kumar is none else but the cousin of the petitioner and Babloo Kumar has confessed in his statement recorded under Section 67 of the NDPS Act that he was acting as per the direction of the petitioner, who was in constant touch with him and Pradip Kumar Gogoi and at his direction the consignment was booked.

9. I have heard counsel for the parties and perused the impugned order passed the Court below.

10. It is well settled that meticulous analysis of evidence is not to be done at the stage of framing of charge. In case upon consideration of material available on the record and documents submitted therewith and after hearing the submissions of the accused and the prosecution in this behalf, the Court considers that there is sufficient ground for proceeding against accused, the Court shall frame charge against the accused and proceed with the trial. The sufficiency of the evidence is to be looked into at the final stage of trial of the case and not at the stage of framing of charge.

11. In the present case, I find that there is sufficient material to frame charge against the petitioner.

12. Accordingly, the application is dismissed. However, it

is made clear that the order passed by this Court shall have no bearing
on the merit of the case during trial.

(Ashwani Kumar Singh, J.)

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