

IN THE HIGH COURT OF JUDICATURE AT PATNA**Criminal Miscellaneous No.2105 of 2016**

Arising Out of PS.Case No. -154 Year- 2012 Thana -KORHA District- KATIHAR

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1. Md. Jabbar Alam, S/o Haji Wajid Ali, Resident of Village- Bura, P.S.-
Korha, District- Katihar. Petitioner/s

Versus

1. The State of Bihar Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anshuman Jaipuriyar, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar(APP)

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

ORAL ORDER

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09-08-2016

Heard learned counsel for the petitioner as well as

learned APP for the State.

Gone through the order impugned.

During course of raid, Godown belonging to joint family of the brothers of the petitioner, it was found that so many empty bags of different cement manufacturers were kept. Side by side, the filled up bags as well as other raw materials by which aforesaid duplicate activity was being done along with equipments were seized. The written report itself speaks presence of Khurshid Alam, the tractor driver, Pappu Chaudhary who, on interrogation, have disclosed that this Godown is the joint property and for the present, it has been let out in favour Chandan Kumar Jaiswal @ Dablu as well as Md. Mustafa who were indulged in such nefarious activities. Furthermore, they failed to produce the document relating to tenancy.

Annexing Annexure-2, the deed of tenancy, it has been submitted that the Godown in question was not at all in possession

of the petitioner and that being so, arraying as an accused is illegal. Apart from this, it has also been submitted that Godown happens to be the joint family property and on account thereof, petitioner should not have been identified as one of the culprits.

The learned APP opposed the prayer.

The date of occurrence is 13.04.2012 while Annexure-2 speaks with regard to its existence since 08.04.2012. The articles which have been seized do not justify its presence just within a span of four days. Apart from this, from the Fard-e-beyan itself, it is evident that Godown and residential house of the petitioner happen to be in the same complex. Furthermore, from Clause-4 of the deed, it is evident that parties have agreed that no illegal work will be carried out therefrom. In the aforesaid background, it was expected at the end of the petitioner to have informed the police in case, his tenants were indulged in such kind of illegal activities.

By not taking any step would also identify the status of the petitioner as abettor and in the aforesaid background, summoning of petitioner is not at all found illegal. Petition is rejected.

(Aditya Kumar Trivedi, J)

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