

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20191 of 2016

Arising Out of PS.Case No. -13 Year- 2015 Thana -GOVERNMENT OFFICIAL COMP. District-
GAYA

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Ishwardhari Chaudhary S/o Late Basudeo Chaudhary, resident of Mohalla-
Mallah Toli, Manpur, P.S.- Mufassil, District- Gaya

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Raj Kishore Prasad, Adv.

For the Opposite Party/s : Ms. Anita Kumari Singh(App)

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

3 27-09-2016 Heard learned counsel for the petitioner and counsel
for the State.

In this case, the petitioner is challenging an order dated 17.3.2015 passed in Excise Case No. 13 of 2015 (Trial No. 89 of 2015) by which cognizance has been taken under Sections 47 (a) & (f) of the Bihar Excise Act, 1915.

The short fact of this case is that 50 liters of illegal wine, 400 Kg. of Jawa Mahua kept in 2 separate containers and one machine for making wine were seized by the raiding party.

Learned counsel for the petitioner submits that the aforesaid prohibited seized articles have not been recovered from the conscious possession of the petitioner or from the house of the petitioner rather the same have been recovered from a deserted

place and so much so that as per First Information Report, all the illegal articles were destroyed in the process of recovery which itself shows that the case has been lodged on a malafide ground. Learned counsel for the petitioner also submits that the seizure list has not been prepared in a proper manner.

These are disputed questions of facts which will be seen and decided by the trial court as also the evidentiary value of search and seizure list and the consequential effect on the prosecution. In such view of the mater, at this stage, this Court would not interfere with the order taking cognizance.

With the aforesaid observation, this application is dismissed with a liberty to the petitioner to raise all the points at an appropriate stage.

(Shivaji Pandey, J)

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