

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.42303 of 2011

Arising Out of PS.Case No. -294 Year- 2010 Thana -null District- GAYA

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Mukesh Kumar, son of Raj Kumar Satal, r/o village- Murarpur (Devi Asthan), P.S.- Kotwali (Gaya), Distt.- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar
2. Shambhu Nath Thakur, son of not known, Drug Inspector, Gaya, District- Gaya

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Sinha, Advocate
Mr. Shashi Bhushan Pandey, Advocate.
For the State : Mr. A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 03-10-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 6.12.2010 passed by the learned Chief Judicial Magistrate, Gaya, in connection with Kotwali (Gaya) P.S. Case No. 294 of 2010 by which the learned Magistrate took cognizance under Sections 419, 420 of the Indian Penal Code, Sections 26(A), 27(b) (ii) 27(d) 18(a) (vi), 18(c) and 17(B) of the Drugs and (Cosmetics Act), 1940.

2. Heard learned counsel for the petitioner and learned counsel for the State.

3. It has been submitted on behalf of the petitioner that the Drug Inspector, Gaya, was not competent authority to register



the case rather a complaint case would have been filed. The counsel for the petitioner, has in support of such submission, relied on a decision reported in **2009 (1) PLJR -860 (Suresh Prasad and Ors. Vrs. State of Bihar and Anr.) and BLJ 1997 (1) – 899 (Hindustan Lever Ltd. Vrs. State of Bihar and Ors.)**

4. The counsel for the State has submitted that case has been registered against the petitioner for the offence under Sections 419 and 420 of the Indian Penal Code along with offences of Drugs and Cosmetics Act. The police after investigation, submitted charge sheet against the petitioner for the offence under Sections 419, 420 of the Indian Penal Code along with offences of Drugs and Cosmetics Act.

5. In the written report, it is alleged by the informant that on confidential information, he reached at Jharkhand Road Carrier (near Murarpur at Devi Asthan), Gaya, and found that this petitioner had booked illegal plastic ampoule Oxytocine Injection (2 ml.) for transportation. This petitioner disclosed on enquiry that aforesaid Drugs belong to Jeet Narayan, who is resident of Manpur, Gaya. Thereafter, the police seized those Drugs.

As such, from the written report itself, it appears that it was well within the knowledge of this petitioner that those were illegal Drugs and the same were booked by this petitioner for



transportation to different places.

6. In such circumstances, this Court does not find any illegality in the impugned order.

7. Accordingly, this Criminal Miscellaneous application is dismissed.

8. The court below will proceed in the case in accordance with law.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
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