

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.29196 of 2011

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1. Binod Prasad Gupta @ Binod Sah
2. Munna Sah

Both are sons of Late Ramji Sah, resident of Jai Mata Di Sweets, Biscomaun Bhawan, West Gandhi Maidan, P.S. Gandhi Maidan in the town and District of Patna

.... Petitioners

Versus

The State Of Bihar

.... Opposite Party

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Appearance:

For the Petitioners : Mr. Dhananjay Kumar Tiwary, Adv.

For the Opposite Party : Mr. Shailendra Kumar No.1, APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 20-04-2017

Heard learned counsel for the petitioners and learned APP for the State.

2. The present application has been filed for quashing the proceeding in Case No. 112(M)/2001 filed for the offences punishable under Sections 16(i)(a)(i) of the Prevention of Food Adulteration Act, 1954 (for short "the Act") pending in the Court of learned S.D.J.M., Patna.

3. The short facts of the case according to the petitioner are that the Food Inspector, Patna collected samples of '*peda*' and '*Chhena*' from the shop of the petitioners and sent the samples to the Public Analyst of the combined Food and Drug Laboratory, Agam Kuan, Patna-800 007 and on receipt of the reports, filed two prosecution reports on



04.12.2001 under Section 16(1)(a)(i) of the Act alleging adulteration in '*peda*' and '*Chhena*' as the same contained starch.

4. Learned counsel for the petitioners submits that the entire proceeding is vitiated for want of opportunity under Section 13(2) of the Act, as a copy of the report of the Public Analyst was not made available to the petitioners. Subsequently upon getting knowledge of such report, the petitioners requested that the samples be sent to the Director General, Central Food Laboratory for an independent analysis under Section 13(2) of the Act, and for which purpose they deposited the requisite bank drafts. The samples were however, not sent to the Central Food Laboratory for analysis and owing to passage of time the samples are no longer worthy of analysis. It is therefore submitted that continuance of criminal proceedings against the petitioners amounts to abuse of process of the Court. It is further stated that this Court has quashed similar proceedings instituted against the petitioners in respect of alleged adulteration of '*peda*' by its order dated 20.06.2011 passed in Cr. Misc. No. 17206 of 2009.

5. Learned APP for the State appears and has been heard.

6. Having heard the parties and on consideration of the materials on record, this Court finds merit in the petition. It is not in dispute that despite deposit of requisite bank drafts, the samples were not sent to the Central Food Laboratory in terms of Section 13(2) of the Act. No useful purpose would be served even if the samples were to be



sent for analysis at this belated stage considering that the samples had been taken as far as in the year 2001. As noted above, a co-ordinate Bench of this Court has quashed similar proceedings against the petitioners in Cr. Misc. No. 17206 of 2009 in similar circumstances in the matter relating to alleged adulteration in '*peda*'. This Court is therefore of the view that continuance of criminal proceedings against the petitioners would amount to abuse of process of the Court and the same are accordingly quashed. The petition stands allowed.

(Vikash Jain, J)

Chandran/BT

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