

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No 30807 of 2014

Arising Out of PS.Case No. -2 Year- 2013 Thana -GOVERNMENT OFFICIAL COMP. District-
BHOJPUR

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Surendra Sharma Son of Sri Rajeshwar Sharma resident of village-Dhauri, P.S.-
Sahar, District- Bhojpur

.... Petitioner/s

Versus

1. The State of Bihar
2. The Forester, Forest Range, Piro-Charpokhari, District- Bhojpur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr Vinay Mistry, Advocate

For the S t a t e : Mr Sanjay Kr Tiwary No 1, APP

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 03-08-2017

The instant petition has been filed for quashing the order dated 07.06.2014 passed by the learned Chief Judicial Magistrate, Ara in Case No 2 (F) of 2014 taking cognizance of the offence under Sections 33, 41, 42 of the Indian Forest Act, 1927 against the petitioner.

2 The prosecution case alleges that from the premises of the petitioner, unaccounted wood was recovered for which no paper was shown during the inspection and/or explanation was offered. The case was lodged under the provisions of the Forest Act. It also alleges operation of saw mill for logs of bigger size and also transportation of wood. Submission of the petitioner is that the Government of Bihar



has already granted exemption to operation of saw mills with 18 inch diameter circular blade. Relying upon the order passed in *CWJC No 3916 of 2012* dated 06.09.2012, the seized articles, pursuant to the inspection dated 26.07.2013, had been released and the confiscation case arising out of the said seizure dated 26.07.2013 had also been dropped by the authorities by Office Order dated 05.05.2014 bearing Memo No 17 issued by the Divisional Forest Officer, Bhojpur (Annexure 3).

3 In so far as the instant proceedings are concerned, the petitioner submits that the order taking cognizance is bad since the seizure list does not show recovery of any material so as to attract the provisions of the Forest Act. He also submits that he has not violated any provisions of the Forest Act. The allegation made in Annexure 1 with regard to recovery of unaccounted wood of large size is not correct. Such factual denial cannot be looked into by this Court exercising jurisdiction under Section 482 of Criminal Procedure Code. As regards his saw mill being exempted under the circulars of the State Government, the petitioner has already got his relief in respect of the said allegation vide Annexure 3 which is the Office Order dated 05.05.2014 bearing Memo No 17 issued under the signature of the Divisional Forest Officer, Bhojpur Forest Division, Ara.

4 In so far as the allegations under the Forest Act are



concerned, the factual denials cannot be looked into exercising jurisdiction under Section 482 of Cr P C.

5 Counsel for the petitioner has also placed reliance on a judgment dated 21.05.2015 passed in *Cr Misc No 50454 of 2012* to emphasize that the forest officials are not justified in conducting the search and seizure. Perusal of the said order and judgment relied on by the counsel for the petitioner reveals that allegations in that case were with respect to the offences punishable under the Bihar Saw Mills (Regulation) Act, 1990. In the instant case, on the other hand, the order taking cognizance is for offences under the provisions of the Forest Act. Therefore, the said order and judgment dated 21.05.2015 passed in *Cr Misc No 50454 of 2012*, in my opinion, does not help the case of the petitioner.

6 For the aforesaid reasons, I find no merit in this application which is, accordingly, dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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