

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 49564 of 2013

Arising out of P. S. Case No. - 164 Year - 2006 Thana - GOVERNMENT OFFICIAL COMP. District -
MADHUBANI

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Hindustan Coca Cola Beverages Pvt. Ltd. a Company incorporated under the Companies Act, 1956, having its registered office at 13-Abul Fazal Road, Bengali Market, New Delhi - 110001 and having its Plant and office at E-1 Industrial Area, Patliputra, Patna - 800013 through its authorized signatory Zonal Head, Legal Manager Mr. Rankan Kumar

.... Petitioner

Versus

1. The State of Bihar
2. Jeetendra Prasad, S/O Not Known Food Inspector, C/O Office of the Civil Surgeon-cum-Chief Medical Officer, Madhubani

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. N.K. Agrawal, Sr. Advocate
Mr. Kumar Manish, Advocate
Mr. Kamlesh Kumar Singh, Advocate
For the Opposite Parties : Mr. Chandra Bhushan Prasad, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 11-01-2017

Heard learned counsel for the petitioner and learned
counsel for the opposite parties.

2. The petitioner has challenged the order dated 30th
November, 2006 passed in G.O. Case No. 164 of 2006 (Tr. No.
1340 of 2009) whereby cognizance has been taken against the
petitioner for offence under Section 16 of the Prevention of Food
Adulteration Act, 1954.

3. The prosecution report reveals that sample of Thumps
up manufactured by the petitioner was seized by the Food
Inspector, Madhubani with specific mention of the batch number.
The seized article was sent for chemical analysis at the Combined



Food and Drug Laboratory, Agamkuan, Patna-7. The only defect noticed was that date of manufacturing was not clearly visible on the sample.

4. Learned counsel for the petitioner submits that the report of the analyst would reveal that there was no deviation of the Acts & Rules because if the same was not readable to the concerned analyst, it cannot be said that the date of manufacturing was not mentioned. He submits that, in similar circumstances, this Court had quashed the criminal prosecution in M/S Nestle India Limited vs. The State of Bihar & Ors. in Cr. Misc. No. 13737 of 2011 by order dated 05.08.201.

5. Learned counsel for opposite party no. 2 submits that prosecution report as well as report of the analyst would reveal that there is apparent violation of Rule 32 of the Prevention of Food Adulteration Rules, 1955.

6. In M/S Nestle India Limited case, the batch number as well as manufacturing date was not very clear to the public analyst. This Court observed as follows “times without number, this Court as well as the Apex Court have held that if the manufacturing date as also the batch number is stated on the rapper over the food product, this amounts to substantial compliance of the Act and the Rules.”



7. On consideration of entire facts and circumstances of this case as above, this Court finds that there was no sufficient material, disclosing non-compliance of the requirement of the Act and Rules, before the learned court below to take cognizance. Hence, the impugned order taking cognizance is not sustainable in law and, accordingly, the same is quashed and this application stands allowed.

(Birendra Kumar, J.)

Kundan

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