

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.51310 of 2014

Arising Out of PS.Case No. -98 Year- 2009 Thana -GOVERNMENT OFFICIAL COMP. District -
MADHUBANI

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1. Gulam Haidar @ Pappu Mian S/o Badre Alam Resident of Village Khutauna,
P.S. Khutauna, District Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Forest Range Officer, Jhanjharpur Range, Jhanjharpur, District Madhubani.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vinay Mistry, Advocate.
For the State : Mr. Harendra Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 01-12-2017

Heard learned counsel for the petitioner and the State.

This application has been filed for quashing the order dated 16-04-2010 passed by learned Sub Divisional Judicial Magistrate, Jhanjharpur in G.O. No. 98 of 2009 by which, the learned Magistrate has taken cognizance against the petitioner for the offence under Sections-1, 9, 10 of the Bihar Saw Mills (Regulation) Act, 1990 and U/s 33, 41, 42 of Indian Forest (Bihar Amendment 1989) Act, 1927 on the basis of official complaint filed by Forest Range Officer, Jhanjharpur.

The FIR has been filed by Forest Range Officer, Jhanjharpur alleging therein that on 09-12-2009, the unit of petitioner



was inspected and different size of Shisham, Mango, Amrud, Gamhar/ were found and also found the Vineer Mill without having valid licence under Bihar Saw Mills (Regulation) Act, 1990 which is punishable under Sections- 1, 9, 10 of the Bihar Saw Mills (Regulation) Act, 1990 and u/Ss 33, 41 & 42 of Indian Forest (Bihar Amendment 1989) Act, 1927. The seizure list was prepared which is enclosed with the written report.

The court below after looking into official complaint filed by Forest Range Officer, Jhanjharpur and the materials available on the record took cognizance against the petitioners for the offence under Sections-1, 9 & 16 of Bihar Saw Mill (Regulation) Act, 1990 and under Sections-33, 41, 42 of the Indian Forest, Bihar Amendment Act, 1927.

Counsel for the petitioner has submitted that Principal Chief Conservator of Forest has issued a direction vide his memo No. 3777 dated 01-10-2008 directing all licensing authorities not to register complaint under Sections-33, 41 & 42 of the Indian Forest Act in respect of the Saw Mills but in spite of that, the complaint case has been registered under Sections-41 & 42 of the Forest Act which is contrary to the standing direction of Principal Chief Conservator of Forest Bihar. It has further been submitted that the wood in question were not seized during the course of transit. Thus no offence under



Sections-33, 41 & 42 of the Indian Forest Act, 1927 is made out against the petitioner as well as Sections-1, 9 & 10 of the Bihar Saw Mills (Regulation) Act, 1990.

Counsel for the State has submitted that the learned Magistrate is only required to see prima facie case at the time of cognizance. These things are to be looked into during the trial.

The court below is required to see only prima facie case at the time of taking cognizance. The court has taken cognizance on the basis of material available in official complaint filed by Forest Range Officer.

Therefore, this court does not find any illegality in the impugned order. Hence, this Cr. Misc. application is dismissed.

The petitioner may raise all the points as raised in this Cr. Misc. application at appropriate stage in the court below which shall be considered by the court below in accordance with law.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	07-12-2017
Transmission Date	07-12-2017

