

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.1548 of 2015

Arising Out of PS.Case No. -9 Year- 2012 Thana -GOVERNMENT OFFICIAL COMP. District- PATNA

Bishnu Kumar Surekha @ B.K. Surekha, S/o Shri Babu Lal Surekha, Executive President, Bharat Sugar Mills, Sidhwalia, Gopalganj

.... Petitioner/s

Versus

- 1. The State of Bihar
- 2. The Sub- Inspector, Excise Patna, Bihar In-charge of Masaurhi Case No. 09(2) of 2012.

.... Opposite Party/s

with

Criminal Miscellaneous No. 5479 of 2015

Arising Out of PS.Case No. -7 Year- 2012 Thana -PATNA COMPLAINT CASE District- PATNA

Bishnu Kumar Surekha @ B.k. Surekha, S/o Shri Babu Lal Surekha, Executive President, Bharat Sugar Mills, P.O. P.S. Sidhwalia, Distt. - Gopalganj

.... Petitioner/s

Versus

- 1. The State of Bihar
- 2. The Sub- Inspector, Excise Patna, Bihar In-charge of Masaurhi Case No. 07(2) of 2012.

.... Opposite Party/s

with

Criminal Miscellaneous No. 4209 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- PATNA

Bishnu Kumar Surekha @ B.k. Surekha, Son of Sri Babu Lal Surekha, Executive President, Bharat Sugar Mills, Sidhwalia, Gopalganj

.... Petitioner/s

Versus

- 1. The State of Bihar
- 2. The Sub- Inspector, Excise Patna, Bihar In-charge of Masaurhi Case No. 10(2) of 2012.

.... Opposite Party/s

with



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Criminal Miscellaneous No. 963 of 2015

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Arising Out of PS.Case No. -8 Year- 2012 Thana -PATNA COMPLAINT CASE District- PATNA

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Bishnu Kumar Surekha @ B.k. Surekha, S/o - Shri Babu Lal Surekha, Executive President, Bharat Sugar Milla, Sidhwalia, Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Sub- Inspector, Excise Patna, Bihar In-charge of Masaurhi Case No. 08(2) of 2012.

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.1548 of 2015 and other cases)

For the Petitioner/s : Mr. Y. V. Giri, Sr. Advocate.
Mr. Ashish Giri, Advocate.

For the State : Mr. M. N. Jha, A.P.P.

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(ORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 30-01-2017

These four applications, under Section 482 of the Code of Criminal Procedure, have been filed on behalf of Bishnu Kumar Surekha @ B. K. Surekha, Executive President of Bharat Sugar Mills, Sidhwalia, to quash the order dated 29.10.2012 passed in Case Nos. 09(2) of 2012, 07(2) of 2012, 10(2) of 2012 and 08(2) of 2012, whereby the court of Sub-Divisional Judicial Magistrate, Masaurhi, Patna took the cognizance of the offence, under Sections 10 of the Bihar Molasses Control Act, 1947 and Section 47 of the Excise Act 1915, against the petitioner and two others. As such, all the four applications have been heard together and are being disposed of by this common order.



2. The case of the prosecution is that, on 11.07.2012, the trucks bearing registration nos. WB-11B-2997, WB-11B-1892, WB-11B-3297 and NL-01K-4097 were seized loaded with molasses by the Excise Department at Masaurhi, Patna, when the drivers of aforesaid truck were questioned, they only disclosed the name of the owner of the trucks saying that on instruction of owner of the trucks, the molasses was loaded at Sugar Mill, Sidhwalia for unloading the same at Kolkata.

3. On the basis of report dated 12.07.2012 of Sub-Inspector, Excise Task Force Bihar, Patna, Case Nos. 09(2) of 2012, 07(2) of 2012, 10(2) of 2012, 08(2) of 2012 and 06(2) of 2012 were instituted in respect to seized molasses loaded in aforesaid four trucks, showing the name of Drivers, owners of the trucks and also the name of the petitioner being Executive President of Bharat Sugar Mill, Sidhwalia, Gopalganj in the accused column. The learned Sub-Divisional Judicial Magistrate, Masaurhi, Patna took the cognizance of the offence, under Sections 10 of the Bihar Molasses Control Act, 1947 and Section 47 of the Excise Act, through the impugned order dated 29.10.2012 against the drivers, owners of the trucks and also this petitioner.

4. Learned counsel for the petitioner submits that at the time of occurrence, this petitioner was an Executive President of



Bharat Sugar Mills, Sidhwalia and the occupier of the sugar mill was responsible for day-to-day business of the sugar mill. Mr. P.K. Lakhotiya was the previous occupier of the sugar mill and he was replaced by Mr. P.K. Malpani vide resolution dated 13.08.2012. Under Such circumstances, petitioner being the Executive President of Bharat Sugar Mills, Sidhwalia, could not be made responsible for day to-day business of Sugar Mill and he should not be prosecuted as he was not occupier of the Sugar Mill at that time. Further submission is that in the prosecution report, which is the basis of the case, no allegation has been made against the petitioner having hand in the loading of the molasses. Further submission is that cognizance order dated 29.10.2012 passed in Case No. 06(2) of 2012 regarding seizure of molasses in another truck on same day has been quashed against the petitioner vide Criminal Miscellaneous No. 9334 of 2014

Since there is no contrary material with regard to the aforesaid, the order of cognizance dated 29.10.2012 passed by the Sub-Divisional Judicial Magistrate, Masaurhi, Patna, in Case No. 09(2) of 2012, Case No. 07(2) of 2012, Case No. 10(2) of 2012 and Case No. 08(2) of 2012 in so far the petitioner is concerned is hereby quashed.

5. However, quashment of the impugned cognizance order in respect to petitioner shall not debar summoning the real



accused at any stage of trial.

(Rajendra Kumar Mishra, J)

Bhardwaj/-

AFR/NAFR	
CAV DATE	
Uploading Date	06.02.2017
Transmission Date	06.02.2017

