

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33521 of 2013

Arising Out of PS.Case No. -178 Year- 2011 Thana -GANDHIMAIDAN District- PATNA

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1. Manish Kumar S/O Sri Ashok Kumar Resident Of Village- Belua, Police
Station- Belaganj, District- Gaya

.... Petitioner/s

Versus

1. The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No-2

For the Opposite Party/s : Mr. R.B.Rai Raman (App)

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 09-01-2017 Heard the parties.

By way of the present application preferred under Section 482 of the Code of Criminal Procedure, the petitioner seeks quashing of the order dated 21.10.2011 passed by learned Additional Sessions Judge –VII, Patna in Special Case No. 29/2011, arising out of Gandhi Maidan P.S. Case No. 178 of 2011 by which the charges have been framed against the petitioner and others under Sections 21C, 27A and 29(C) of the N.D.P.S. Act and summons were issued to the witnesses.

It has been submitted on behalf of the petitioner that though there is allegation in the F.I.R. against the petitioner that from his possession one packet containing brown sugar was



recovered, however this Court, while considering the bail application of the petitioner, called for the F.S.L. report of the article seized from the possession of the petitioner and the said F.S.L. report was received in this Court, wherein, it was mentioned that 'the result of examination shows no trace of heroin or brown sugar'. Learned counsel for the petitioner submitted that since the F.S.L report does not show any trace of brown sugar or heroin from the packet recovered from the petitioner, therefore, no case of N.D.P.S Act, as alleged, is made out against him.

Heard learned A.P.P. also.

Having regard to the facts and circumstances of the case and on perusal of the order, dated 12.03.2012, passed by this Court in Criminal Miscellaneous No. 40369 of 2011, wherein the F.S.L. report was called for from the Director Forensic Science Laboratory, Patna in the said report it was opined that the examination of the seized article did not show any trace of heroin or brown sugar and there is nothing in the order of learned Court below as to show that he has considered this aspect of the matter.

In view of above facts, this application is allowed, the order dated 21.10.2011 passed by learned Additional Sessions Judge – VII, Patna in Special Case No. 29 of 2011, arising out of



Gandhi Maidan P.S. Case No. 178 of 2011, is hereby quashed and the matter is remanded back to the Court below for considering the matter afresh after taking note of the F.S.L, report of the articles seized and other materials available on record.

(Vinod Kumar Sinha, J)

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