

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.753 of 2016

Arising Out of PS.Case No. -11 Year- 2015 Thana -PIRBAHOR District- PATNA

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Suraj Kumar, Son of Late Brij Mohan Kumar, Proprietor, Shashi Blood Bank,
Ashok Raj Path, Muradpur, P.S. - Pirbahore, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Shri Sanjiv Kumar, Inspector of Drugs, Patna - 1, Son of Late Ramjee Sharma
Resident of Village - Ajmatpur, P.O. - Vidupur, District - Vaishali.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Birendra Kumar, Advocate.
Mr. Anirban Kundu, Advocate.
For the State : Dr. Indihar Kumari, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 11-09-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the First Information Report of Pirbahore P.S. Case No. 11 of 2015 instituted for the offences under Section 274, 275, 276, 284, 420, 467, 468 and 120B of the Indian Penal Code, Sections 27(a), 27(c), 27(d), 28, 28(A) and 28(B) of Drugs and Cosmetics Act and Section 7(i)(ii) of Essential Commodities Act, pending in the Court of Sub Divisional Judicial Magistrate, Patna.

2. Heard learned counsel for the petitioner and learned counsel for the State.

3. Learned counsel for the petitioner submits that



First Information Report lodged by the informant is illegal as he was not competent to lodge First Information Report under Section 32 read with Section 22 of Drugs and Cosmetics Act. It has further been submitted that Opposite Party No. 2, was not properly notified by the competent authority to lodge First Information Report. It has further been submitted that First Information Report has been lodged for the offence punishable under Sections 274, 275, 276, 284, 420, 467, 468, 120B of the Indian Penal Code, Sections 27(a), 27(c), 27(d), 28, 28(A) and 28(B) of Drugs and Cosmetics Act and Sections 7 (i)(ii) of Essential Commodities Act. The informant is Drug Inspector who is not competent to lodge First Information Report under Section 32 read with Section 22 of Drugs and Cosmetics Act.

4. Section 32 of Drugs and Cosmetics Act speaks as follows:

“32. Cognizance of offences. – [(1) No prosecution under this Chapter shall be instituted except by –

(a) an Inspector; or

(b) any Gazetted Officer of the Central Government or a State Government authorized in writing in this behalf by the Central Government or a State Government by a general or special order made in this behalf by that Government; or



(c) the person aggrieved; or

(d) a recognized consumer association whether such person is a member of that association or not

(2) Save as otherwise provided in this Act, no Court inferior to that of a Court of Session shall try an offence punishable under this Chapter.]

(3) Nothing contained in this Chapter shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Chapter.

5. Counsel for the petitioner relied upon a decision of our own High Court reported in 2005 (3) PLJR (Basudeo Gupta Vrs. State of Bihar & Ors.) wherein the Court has held that institution of an First Information Report by the police is not permissible.

6. This Court on going through aforesaid judgment finds that the fact of that case is different from the fact of the instant case.

7. From the plain reading of Section 32 of Drugs and Cosmetics Act it appears that Section 32 (1) (a) of the aforesaid Act empowers Drug Inspector for institution of First Information Report.

8. The instant First Information Report has been lodged by the Drug Inspector.



9. It further appears from First Information Report that offence is alleged to have been committed of Indian Penal Code as well as Essential Commodities Act besides the Drugs and Cosmetics Act.

10. Therefore, this Court does not find any illegality in lodging the First Information Report by Drug Inspector.

11. The application stands dismissed.

12. The police is directed to continue with investigation of the case and conclude investigation and submit final report under Section 173 Cr. P.C expeditiously preferably within a period of six months from the date of receipt of this order.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	25/09/2018
Transmission Date	25/09/2018

