

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1295 of 2015

Arising Out of PS. Case No.-700 Year-2015 Thana- FORBESGANJ District- Araria

Sri Tamal Sen @ Triptesh Sen Son of late Late Bhupesh sen Manager ,
Owner, Licensee of Forbesganj Auto Services Aspatal (hospital Road)
Forbesganj, P.s Forbesganj in the District of Arraria Bihar.

... .. Petitioner

Versus

1. The State of Bihar Through The Director General of Police, Government of Bihar, Patna
2. The Superintendent of Police, Araria.
3. The Station House Officer Forbesganj.
4. The Block Marketing Officer Forbesganj.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Gajendra Pratap Singh
For the Respondent/s : Mr. Nawal Kishore Singh (Sc 2)

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 08-08-2018 This writ application has been preferred for quashing

of the first information report being Forbesganj P. S. Case No.

700 of 2015 dated 07.12.2015 registered under Section 7 of the

Essential Commodities Act, 1955.

2. Learned counsel for the petitioner submits that the
father of the petitioner was allotted a Petrol Pump license to sell
petrol and diesel in Forbesganj from the Oil Company namely,
Bharat Petroleum Company in the year 1964 itself. It is
admitted position that the Petrol Pump was engaged in the
business of sale of petrol/motor spirit and high speed diesel
since 1964 in the name of Forbesganj Auto Service. This
petitioner was inducted in the business as a partner in the year



1984 and thereafter, the father of the petitioner died on 08.04.1997. This petitioner is, therefore, looking after the business of the Petrol Pump for last 33 years approx without there being any complaint against the Petrol Pump or the petitioner. It is submitted that the informant who is the Block Supply Officer at Forbesganj in the district of Araria searched the premises of the Petrol Pump of the petitioner on 07.12.2015 and for no valid reason slapped the petitioner with the Forbesganj P. S. Case No. 700 of 2015 alleging that 12 gallons of High Speed Diesel were seized from the premises.

3. Learned counsel for the petitioner has read out the written complaint dated 07.12.2015 lodged by the Block Supply Officer, Forbesganj giving rise to the Forbesganj P. S. Case No. 700 of 2015. It is his submission that a bare reading of the written complaint would show that the same has been lodged on mere surmises and conjectures. The informant has alleged that because in the neighbouring area of Nepal there is a shortage of petroleum, therefore, because it happens to be a boarder area, there are probabilities of black marketing. He has alleged that because the high speed diesel were found packed in the polythene and were kept in the plastic bags, therefore, the petitioner seems to be involved in black marketing.



4. Learned counsel for the petitioner submits that the petitioner has been made accused in this case only on mere probabilities as the informant has not found any actual involvement of the petitioner in black marketing but has lodged the first information report on wild speculation. Learned counsel for the petitioner has submitted by placing on record the true copy of the certified copy of the order sheets of the court below that till date no charge-sheet under Section 173 of the Code of Criminal Procedure has been filed against the petitioner which may be apparent from the record.

5. On the other hand, learned counsel representing the State has opposed the prayer for quashing of the first information report on the grounds inter alia that from the business premises of the petitioner packed high speed diesel were recovered from which in all probability were likely to be sold on high price in black market and therefore, the case was registered.

6. Having heard learned counsel for the petitioner and learned counsel representing the State as also on perusal of the records, this Court finds that the first information report is based on a guess work of the informant as he found the high speed diesel packed in the polythene; the informant took a view that



those were likely to be sold by way of black marketing. In course of supervision, a copy of which has been brought on record, it is recorded by the Sub-Divisional Police Officer, Forbesganj that at the time of raid in the premises many persons were present in the premises who were purchasing and taking petroleum products, they were standing in queue with gallons in their hands and they fled away. No body was caught on the spot and to this Court it appears that only because people were standing in a queue with gallons in their hands and they fled away it cannot be said that the owner of the Petrol Pump was likely to be involved in black marketing. In supervision also suspicion has only been raised against the petitioner that he seems to be involved in sale of the petroleum products in higher rate but save and except the wild suspicion no material could be collected by the informant to prima faice show that the petitioner was involved in black marketing of the high speed diesel. It is admitted position that the petitioner is an authorized dealer of petroleum products and he was selling the petroleum products under a valid license.

7. To this Court, it appears that the entire prosecution case is based merely on surmises and conjectures without there being any material to connect the petitioner with a probable case



of black marketing. A learned co-ordinate Bench of this Court while passing the interim order dated 18.12.2015 has taken note of the contention of the petitioner that the allegations made in the first information report do not attract ingredients of cognizable offence as the entire allegations are based on hypothetical presumption and wild suspicion.

8. On going through the contents of the first information report and the materials available on the record, I am of the considered opinion that no cognizable offence is prima facie made out from the reading of the first information report.

9. In the circumstances, it would be in the interest of justice to quash the first information report to protect the petitioner from further harassment. This writ application is, therefore, allowed. The first information report being Forbesganj P. S. Case No. 700 of 2015 stands quashed.

(Rajeev Ranjan Prasad, J)

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