

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.25090 of 2015

Arising Out of PS.Case No. -51 Year- 2015 Thana -BHAWANIPUR District- PURNIA

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Gurudeo Singh @ Golden Singh, S/o Shri Narayan Prasad Singh, R/o Village Askatiya, P.O. Balia, P.S. Bhawanipur, District Purnia.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar, Advocate.

For the Opposite Party/s : Md. Sufiyan, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 03-08-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the First Information Report of Bhawanipur P.S. Case No. 51 of 2015 registered for the offence under Sections 420, 467, 468, 471, 272, 273/34 of the Indian Penal Code, Section 7 of Essential Commodities Act and Section 47(A) of Excise Act.

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

3. The First Information Report was registered by Anil Kumar, Circle Officer, Bhawanipur, alleging that he received telephonic message that during raid conducted on the occasion of Holi in the house of Munna Yadav of Raghunathpur village, country made liquor, fertilizer, seed, insecticide and kerosene oil have been



recovered in huge quantity. He was also informed that aforesaid objectionable goods and weight and measure instruments were also seized in presence of two independent witnesses. It is further alleged that petitioner reached at the place of occurrence and showed the documents pertaining to seized articles which *prima facie* appear to be false. On interrogation by the raiding team, petitioner told that Munna Yadav and petitioner are friends and both of them deal in the seized recovered goods by way of partnership. It is further alleged that petitioner informed the raiding team with regard to another premises from where objectionable articles in huge quantity can be recovered as both i.e. the petitioner and said Munna Yadav deal in these products by way of partnership. Other objectionable articles such as fertilizer, insecticide, seed, packing bags and raw materials used in the preparation of country made liquor were also recovered and accordingly seizure list was prepared.

4. Learned counsel for the petitioner has submitted that from the allegation in the First Information Report there is no sufficient ground for proceeding against the petitioner. The First Information Report has been filed with mala fide and malicious intention.

5. Counsel for the petitioner has relied upon a decision of Hon'ble Supreme Court reported in **1992 Criminal Law**



Journal, Page, 527 (State of Haryana Vrs. Bhajan Lal & Ors.)

wherein the Supreme Court has held in Clause-7 of paragraph-108 that “where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge”, is liable to be quashed.

6. This Court after looking into the allegation in the written report and also the seizure list finds that petitioner was present at the spot and he produced certain documents to the police with regard to the seized articles which appeared *prima facie* by the police to be forged one. In the written report, there is allegation that he disclosed before the police about other premises and after raid incriminating articles were recovered from that premises also for which separate seizure list has been prepared.

7. In such circumstances, this Court is of the view that proper investigation is required to be done in this case to come to truth of the allegation made in the written report.

8. Therefore, this Court is not inclined to quash the First Information Report.

9. This Criminal Miscellaneous application is accordingly dismissed.



10. The Superintendent of Police is directed to instruct the Investigating Officer to conclude the investigation at the earliest and submit report in terms of provision under Section 173 (2) Cr. P.C. within a period of three months from the date of receipt of this order.

11. The District and Sessions Judge, Purnea will communicate this order to Superintendent of Police, Purnea, for compliance.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	10/08/2018
Transmission Date	10/08/2018

