

**IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35836 of 2015**

Arising Out of PS.Case No. -149 Year- 2013 Thana -
KOCHAS District- SASARAM (ROHTAS)

=====

Sunil Kumar Singh, Son of Jai Prakash Singh, Resident of Mohalla-
Ram Mandir Colony, P.O + P.S. Obra, District- Sonbhadar (UP)

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date: 07-05-2018

The petitioner has sought quashing of the order dated 15.05.2015 passed by the learned Additional Chief Judicial Magistrate, Rohtas at Sasaram in connection with Kochas P.S. Case No. 149 of 2013 whereby cognizance has been taken against the petitioner under Sections 379, 411 of the Indian Penal Code and Sections 33, 41, 42, 52 of the Forest Act.

The case of the prosecution is that on 21.11.2013, while the Officer-in-charge of Parssthua O.P. was on patrolling duty, he found that three trucks were coming from Kochas side. On seeing the truck, it was found that those trucks were loaded with stone chips. The drivers of the aforesaid trucks did not stop the vehicle and fled away. However, the vehicles were intercepted and it was found that stone chips from the protected



forest area was being transported in an unauthorized manner.

The petitioner happens to be the owner of all the three trucks which were seized in connection with the aforesaid case.

The learned counsel for the petitioner has submitted that the stone chips which was loaded on the aforesaid vehicles was obtained through valid challan No. AAC 770565 for which taxes were paid at Mirzapur and Varanasi. While the vehicles were on the move, toll tax also was paid. In support of the aforesaid assertion, learned counsel for the petitioner has brought on record the photocopy of the challan and receipt of the toll tax. It has also been submitted that the stone chips were loaded from the business premises of M/S Mishra Stone Crushing Company, Sonebhadra in the State of U.P. through a valid challan which also was shown to the Officer-in-charge of the concerned Police Station but to no avail. Similarly, on other trucks, stone chips from different business premises were loaded. In fact, the engine of one of the three vehicles suffered a snag and therefore, all the vehicles were parked near the forest area. It was only because of the trucks being parked near the forest area that perhaps an impression was gathered by the concerned Police Station that the vehicles were loaded with stone chips which were extracted from the forest area, thereby attracting the provisions of Sections 379, 411 of the Indian Penal Code and Sections 33, 41, 42, 52 of the Forest Act.



The counter affidavit filed on behalf of the State merely reflects that at the time of lodging of the F.I.R, no documents were found regarding the loading of the stone chips from the business premises against valid challan.

This cannot be a ground for prosecuting the petitioner when the stone chips were not extracted from the protected forest area and there being definite proof of the fact that the stone chips were purchased from the business premises with valid challan. The documents annexed with the petition clearly make out that the petitioner has wrongly been prosecuted in the present case.

For the aforesaid facts, the order of cognizance dated 15.05.2015 passed by the learned Additional Chief Judicial Magistrate, Rohtas at Sasaram in connection with Kochas P.S. Case No. 149 of 2013 which has been impugned in the present petition is quashed.

The petition stands allowed.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
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