

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.42 of 2016

Arising Out of PS.Case No. -78 Year- 2014 Thana -GOVERNMENT OFFICIAL COMP. District-
BHAGALPUR

- =====
1. Sanjay Kumar Kejriwal @ Sanjay Kejriwal Son of late Vashudev Kajriwal,
 2. Sita Devi Kajriwal @ Sita Devi, wife of late Vasudev Kajriwal, both resident of village- Barahat , Police Station- Pirpati, District- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. Drug Inspector, Bhagalpur.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Manish Kumar No.2, Advocate
Mr. Gajendra Kumar Singh, Advocate

For the Opposite Party/s : Mr. APP

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 28-08-2018

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 25.07.2014 passed by the Chief Judicial Magistrate, Bhagalpur, in P.S. Case No.78 of 2014 by which the learned Magistrate has taken cognizance against the petitioners for the offence under Section(s) 27(B) (II) of the Drugs and Cosmetic Act, 1940.

Counsel for the petitioners has submitted that father of the petitioner No.1 was holding valid licence. His licence has expired on 31.12.2012. Petitioner No.2 had applied for renewal of licence, which was pending. In the meantime, father of petitioner No.1 died on 01.12.2012.



A report was called for from the Court below, which has been received. The Court below has mentioned in the report that Charge has already been framed in the case on 02.05.2017 and the case is pending for evidence.

As per prosecution case, Drug Inspector raided the premises of M/s Laxmi Agencies, MPD Road, Bhagalpur, on 15.07.2013 on the order of the State Drug Controller, Bihar, Patna, and found that licence had expired on 31.12.2012, but sale and stock of drug was found at the premises. It is further stated that purchase bills of seized drugs were demanded for verification but no bill was produced.

Counsel for the petitioners submits that even if the stage of case has changed then also the Court can interfere under inherent jurisdiction of Section 482 Cr. P. C. He has relied on the decision of this Court dated 03.07.2018 passed in Cr. Misc. No.35092 of 2015. It is further submitted that cognizance has been taken for the offence under Section(s) 27(B) (II) of the Drugs and Cosmetic Act, 1940. There is no chance of conviction of the petitioners under the aforesaid Act. He has relied on the decision of Hon'ble Supreme Court in the case of *Mohd. Shabir vs. State of Maharashtra* reported in (1979) 1 SCC 568.

This Court, on perusal of the complaint petition, finds



that there is specific allegation that when premises of Petitioner was inspected, stock of drug was found in the premises although drug licence had expired on 31.12.2012. It is mentioned in para 9 of the complaint that in the seized drugs, banned and expiry drugs were also found and they were also seized.

The Court below has mentioned in the report that the case is pending for evidence after framing of Charge. The trial is likely to be concluded within a period of six months.

In such circumstances, this Court is not inclined to interfere with the impugned order.

This application is, accordingly, **dismissed**.

The Court below will proceed with the case in accordance with law and dispose of the same expeditiously preferably within a period of six months, as mentioned in the report submitted to this Court, from the date of receipt of copy of this order.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11-09-2018
Transmission Date	11-09-2018

