

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.794 of 2018

Arising Out of PS.Case No. -null Year- null Thana -null District- SARAN

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Narendra Kumar Gupta @ Lalbabu Gupta Son of Kameshwar Gupta Resident of
Hero Honda Warkshop Ratanpur District- Saran at Chapra.

.... Petitioner

Versus

1. State of Bihar Through The Director General of Police, Bihar .
2. The Superintendent of Police, District- Saran, Chhapra.
3. The Officer-in-Charge of Bhagwan Bazar P.S. District- Saran , Chhapra.

.... Respondents

With

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Criminal Writ Jurisdiction Case No. 823 of 2018

Arising Out of PS.Case No. -null Year- null Thana -null District- SARAN

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Vijay Kr. Gupta, S/o Late Jagdish Pd. Gupta, Resident of Bhagwan Bazar, P.S.-
Bhagwan Bazar, Panch Mandir, Dist.- Saran at Chapra.

.... Petitioner

Versus

1. State of Bihar through the Director General of Police, Bihar.
2. The Superintendent of Police, District- Saran, Chhapra.
3. Officer-in-Charge of Bhagwan Bazar, P.S. District- Saran, Chhapra.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rajnish Chandra, Advocate
For the Respondent/s : Mr. M.N.H. Khan, S.C.1
Ms. Babita Kumar, A.C. to S.C.1

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date: 14-05-2018

Pursuant to the order dated 27.04.2018 passed by

this court calling upon respondents to submit their explanation
on the two issues, firstly, as to how the sealing of immovable
property can take place at the hand of the Investigating Officer
without there being any valid order of the court, and secondly,
whether in terms of Section 18 of the Immoral Traffic
(Prevention) Act, 1956 (hereinafter referred to as the “Act”)



any attachment proceeding has been initiated in this case. Now a supplementary counter affidavit filed on behalf of respondent no. 2 reveals in paragraph 6 that (a) no proceeding for sealing of the hotel was initiated (b) when the case was found true after investigation, the hotel was sealed in presence of Block Development Officer/Magistrate and (c) no notice under Section 18 of the Act has been issued within the knowledge of the answering opposite party.

Learned senior counsel representing the petitioner in both the cases would submit that in both the cases the Investigating Officer has sealed the premises after about 45 days without there being any order of Magistrate and as is clear now from the supplementary counter affidavit in fact no notice under Section 18 of the Act was ever issued to the petitioner.

On the other hand, learned counsel representing the State submits that the premises have been sealed only when it was found in course of investigation that an offence under the provisions of the Act was being committed in the premises.

Having heard learned senior counsel representing the petitioner in both the cases and learned counsel representing the State taking note of the fact that no



proceeding under Section 18 of the Act has been initiated and even the supplementary counter affidavit together with Annexure-B attached thereto show that the sealing has been done on the oral order of the Police Officer, at this stage, this court would direct de-sealing/unsealing of the premises in question in both the cases on the petitioner submitting two sureties to the satisfaction of learned Judicial Magistrate, Chapra in connection with Bhagwan Bazar P.S. Case No. 311/2017, with an undertaking that during the pendency of the case the petitioner shall not transfer the premises in question in favour of a third party and no encumbrance whatsoever shall be created thereon. The petitioner shall undertake that he would not indulge in any illegal activity in course of his business in the premises in question. Since the supplementary counter affidavit reveals that no proceeding under Section 18 of the Act has been initiated so far, this court leaves that aspect of the matter for the authorities concerned.

Both these writ applications are accordingly disposed of.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	
CAV DATE	
Uploading Date	15.05.2018
Transmission Date	15.05.2018

