

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7722 of 2015

Arising Out of PS Case No.-229 Year-2009 Thana- SARAIYA District- Muzaffarpur

Sanjay Singh Son of Sri Tokhraj Singh resident of village - Basarakaji, P.S.
Saraiya (Jaitpur O.P.), District - Muzaffarpur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Singh, Advocate
For the State : Dr. Mrityunjaya Kumar Gautam, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 16-05-2019

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

2. The petitioner has moved the Court under Section 482
of the Code of Criminal Procedure, 1973 (hereinafter referred to as
the ‘Code’) for the following relief:

“That this is an application for quashing the order dated 12.01.2012 passed in Saraiya Police Station Case No. 229 of 2009 by the learned S.D.J.M. (West), Muzaffarpur whereby cognizance was taken under Sections 272, 273, 308 of Indian Penal code and section 47 Excise Act and order was passed to issue process also against the petitioner.”

3. Earlier, noticing the submissions of learned counsel
for the petitioner and the circumstances pertaining thereto, the
Court had asked the learned APP to obtain the legible photocopy
of the entire police papers of Saraiya P.S. No. 229 of 2009 and



further it had directed the Deputy Inspector General of Police, Tirhut Range, Muzaffarpur to submit a report personally to the Court, after verifying as to under what circumstances the police submitted chargesheet showing the case to be untrue against the petitioner and not chargesheeted him in the background of the fact that in the raid conducted, from the premises of the petitioner, i.e., his STD shop, there was recovery of 111 pouches of liquor of 200 ml. each, which is a prohibited item in the State of Bihar. Pursuant to the same, learned APP has forwarded to the Court a report of the Deputy Inspector General of Police, Tirhut Range, Muzaffarpur dated 10.05.2019 in which he has clearly held that such non sending up of the petitioner for trial is a grave lapse, both in conducting of the investigation as well as on the part of the Investigating Officer and others concerned. It further discloses that the plea that somebody else had thrown the sack in the shop of the petitioner is totally untenable and also that the Circle Inspector had at his own level changed the directions with regard to the conduct of the investigation, as was directed by his superior officer, leading to undue benefit to the accused which was clearly uncalled for.

4. Learned APP, from the case diary, submitted that many witnesses, including the seizure list witnesses as well as the police party, have stated that the recovery was from the STD shop



of the petitioner. In fact, even the petitioner has not denied the same and the stand is that the said liquor recovered was thrown in his shop. Thus, recovery from his shop not being disputed, clearly it is a matter of full fledged enquiry and the plea of somebody else throwing the sack of 111 pouches of 200 ml. each, which obviously is quite bulky, accepting of such plea, especially at the present stage or even during investigation, clearly borders on absurdity. Thus, in the tentative view of the Court, giving a clean chit to the petitioner by the police does not appear to be *bona fide* and clearly is for some extraneous consideration which is required to be thoroughly and deeply probed and strict action taken against all persons, who have connived in giving such clean chit to the petitioner. This has also been found by the Deputy Inspector General of Police, Tirhut Range, Muzaffarpur.

5. In any view of the matter, the Court below having taken cognizance against the petitioner, which is based on material available before it, especially in the case diary itself, can in no way be said to be illegal, either on facts or in law so as to warrant interference by this Court under its inherent power under Section 482 of the Code.

6. In view thereof, the application, being devoid of merit, stands dismissed.



7. However, the Inspector General of Police, Muzaffarpur Zone, Muzaffarpur as well as the Deputy Inspector General of Police, Tirhut Range, Muzaffarpur are directed to ensure that the matter is taken to its logical conclusion expeditiously, both with regard to fixing of responsibility and taking action against the police officers concerned as well as with regard to the investigation being conducted as is required under law, without being influenced by any extraneous consideration.

8. Though, the Court below has already taken cognizance, but in the interest of justice, this Court, exercising its inherent power under Section 482 of the Code, deems it appropriate to allow the police to conduct further enquiry and submit report to the Court below, which would be taken as additional material along with the previously submitted final report in the case, which is already before the Court below and upon which cognizance has been taken.

9. The Court would also observe that such further investigation should be done under the direct supervision of a senior officer of the district police by a competent Investigating Officer. Let the exercise be completed within two months from today. The Court below shall take on record the supplementary report which would be submitted by the police in the case, as per



the directions issued in the present order and the same along with the previously submitted final report shall be considered to be the report submitted by the police in the present case and on which the prosecution case shall proceed. The report of the Deputy Inspector General of Police, Tirhut Range, Muzaffarpur dated 10.05.2019 is taken on record.

10. Learned APP shall communicate the order to the Inspector General of Police, Muzaffarpur Zone, Muzaffarpur as well as the Deputy Inspector General of Police, Tirhut Range, Muzaffarpur for compliance.

(Ahsanuddin Amanullah, J)

Anjani/-

AFR/NAFR	
U	
T	

