

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16177 of 2015**

Arising Out of PS. Case No.-96 Year-2012 Thana- GOVERNMENT OFFICIAL COMP.
District- Gaya

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Kamlesh Yadav son of Devnandan Yadav Resident of Village- Panchmahla
Police Station- Tekari, District- Gaya

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Shailesh Kumar, Adv
For the Opposite Party/s : Mr.S.Ehteshamuddin, APP

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**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT**

Date : 05-07-2019

Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner has challenged the order of cognizance
dated 15.12.2012 passed in Excise Case No.96 of 2012, T.R.
No.3712 of 2012, whereby cognizance has been taken against the
petitioner for the offences under Section 47(a) & (f) of the Excise
Act.

3. Challenge is on the ground that short prosecution
report and seizure memo would reveal that the house of co-
accused Bholi Yadav was searched and recovery is from the house
of Bholi Yadav. There is no mention that the petitioner was also
present there at the time of recovery nor there is any allegation that



the petitioner is family members of Bholi Yadav. Further contention is that Annexure-4 at page-22 is the report of Assistant Commissioner Excise, Gaya, sent to the Court concerned stating therein that the involvement of the petitioner was not established in connection with the aforesaid case.

4. Considering the fact that there is no material against the petitioner to compel him to face trial, let whole of the criminal prosecution against the petitioner Kamlesh Yadav be quashed to prevent the abuse of the process of court.

5. Accordingly, the application stands allowed.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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