

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16413 of 2015**

Arising Out of PS. Case No.-95 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, Advocate
For the Opposite Party/s : Mr. S. Ehteshamuddin, App

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT
Date : 04-07-2019

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.95 of
2012, T.R. No.3713 of 2012/2890 of 2014, 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 Sao was searched and recovery is from the house
of Bholi Sao. 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 Sao. 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 petitioners 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. Hence, the whole criminal prosecution against the petitioner Kamlesh Yadav would amount to an abuse of the process of the Court. Hence, the same stands quashed.

5. Accordingly, the application stands allowed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.07.2019
Transmission Date	06.07.2019

