

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14995 of 2015**

Arising Out of PS. Case No.-97 Year-2012 Thana- GOVERNMENT OFFICIAL COMP.
District- Gaya

=====

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

=====

Appearance :

For the Petitioner/s : Mr.Shailesh Kumar, Advocate
For the Opposite Party/s : Mr.Jharkhandi Upadhyay, APP

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT
Date : 02-09-2019

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 by learned Chief
Judicial Magistrate, Gaya, in Excise Case No.97 of 2012,
corresponding to T.R. No.3711 of 2012, whereby cognizance
has been taken against the petitioner for the offence under
Section 47(a)(f) of the Excise Act, 1915.

3. The challenge is on the ground that the short
prosecution report filed in this case, at Annexure-1, would
reveal that the entire liquor was recovered from the house of
co-accused Harihar Bhagat from the places mentioned in



Column-2 and the quantity mentioned in Column-3. On Information gathered, after recovery of the liquor, it revealed that the accused persons named in Column-1 including petitioner were involved in that.

4. Learned counsel for the petitioner submits that the petitioner has no concern with Harihar Bhagat nor there is disclosure of name of the witnesses who stated before the authorities concerned that the petitioner was involved or suspected to be involved with the liquor. Contention is that on the same day excise materials were recovered from two other houses for which Excise Case No.95 of 2012 and Excise Case No.96 of 2012 were registered and in both the cases cognizance order against the petitioner has been quashed by this Court in Cr. Misc. No.16413 of 2015 and Cr. Misc. No.16177 of 2015.

5. Considering the fact that there is no material against the petitioner to compel him to face the trial, hence, the entire criminal prosecution against the petitioner arising out the impugned order is an abuse of the process of the Court, which cannot be allowed to go on. Accordingly, the impugned order and entire criminal prosecution against the petitioner stands quashed.



6. The application stands allowed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.09.2019
Transmission Date	06.09.2019

