

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 3610 of 2015

Arising Out of P.S. Case No.-85 Year-2013 Thana- FALKA District- Katihar

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Amar Nath Mandal S/o Late Muni Lal Mandal Resident of Village-
Maheshpur (Salempur) P.S.-Falka, District-Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Vikash Siromani, Drug Inspector S/o Late Kavi Ram Narendra Nath
Mohalla-Joksar Chauk, Bhagalpur, District-Bhagalpur.

... .. Opposite Party/s

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with
CRIMINAL MISCELLANEOUS No. 35275 of 2015

Arising Out of P.S. Case No.-85 Year-2013 Thana- FALKA District- Katihar

- =====
1. Nandani Devi, W/o - Amar Nath Mandal.
 2. Rakesh Kumar @ Ramu Mandal, S/o - Amar Nath Mandal.
 3. Dhananjay Kumar Mandal @ Ajay Kumar S/o - Amar Nath Mandal.
 4. Noor @ Md. Noor Alam, S/o – Mariruddin.
 5. Guddu Mandal @ Dilip Kumar S/o - Upendra Mandal.
 6. Rinkaj Kumar Patel @ Rinkaj Mandal S/o Udai Narayan Mandal.
 7. Kedar Munsu S/o - Late Sidheshwar Mandal.
 8. Sadanand Mandal S/o - Mahabir Mandal.
 9. Jamiruddin S/o - Late Samiruddin.
 10. Anil Kumar Patel @ Gobra Mandal, S/o - Golatu Mandal.
 11. Shushil Mandal S/o - Dukha Mandal.
 12. Basudeo Mandal S/o - Late Santlal Mandal.
 13. Upendra Mandal S/o Mahabir Mandal.
 14. Manoj Mandal S/o - Dukha Mandal.
 15. Arun Mandal S/o - Mohan Mandal.
 16. Binod Mandal S/o - Badar Mandal.
 17. Ravi Mandal @ Prabhat Rakapati S/o - Pasupati Nirala.
All are resident of Village - Maheshpur (Salempur), P.S. - Falka, District -
Katihar.

... .. Petitioner/s

Versus

The State of Bihar



... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 3610 of 2015)

For the Petitioner/s : Mr. Raghvendra Kumar Singh, Advocate

For the State : Mr. Navin Kumar Pandey and

Mr. A. Dayal, APP

Mr. Jharkhandi Upadhyay, I/C APP

(In CRIMINAL MISCELLANEOUS No. 35275 of 2015)

For the Petitioner/s : Mr. Raghvendra Kumar Singh, Advocate

For the State : Mr. Navin Kumar Pandey and

Mr. A. Dayal, APP

Mr. Jharkhandi Upadhyay, I/C APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 07-05-2019

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

2. The petitioners have moved the Court under Section
482 of the Code of Criminal Procedure, 1973, against the order
dated 10.12.2014 passed by the Additional District & Sessions
Judge Ist-cum Special Judge, Katihar in GR Case No. 1201 of
2013, relating to Falka PS Case No. 85 of 2013, by which the
petition filed by them for discharge has been rejected.

3. The allegation against the petitioners is of forcibly
taking away the seized medicines as also the seizure list along
with the statutory filled up forms relating to seizure by calling a
mob.

4. Learned counsel for the petitioners submitted that
there is no seizure list and, thus, in the eyes of law, the petitioners



cannot be prosecuted for any offence. It was submitted that the petitioner Amar Nath Mandal has a certificate with regard to *Swasth Rakshak* and even if, he was having some medicine in his house, as his village was far away from the nearest medical shop, it was for use by the general public at large and for their convenience. It was submitted that the other petitioners had no role in the entire episode and only due to *mala fide* intention, they have been made accused, including the wife and young son of petitioner Amar Nath Mandal. Learned counsel submitted that even if the incident is taken to be true, it may be due to the popularity of Amar Nath Mandal in the area and further that there is no explanation as to why, despite the team having police protection, such incident occurred, which clearly indicates that no such incident took place. Learned counsel also drew the attention of the Court to a written note of the Drug Inspector, who is the informant in the case, in which it is written that the team has not done anything and had also not found anything. It was submitted that there is no specific allegation with regard to the petitioners.

5. Learned APP submitted that there has been great violation of the law by all the petitioners. It was submitted that Amar Nath Mandal had stored medicines which could not have been stored or sold without medical prescription and license.



Further, the others, by forcibly forming a mob and taking away the seized medicines as well as the seizure list as also the filled up statutory proforma in this connection, have clearly violated the law. It was submitted that the matter is serious as public officials performing public duty are forced not to perform their duty under threat and duress. Learned counsel submitted that a clear example of highhandedness and offensive act of the petitioners would be proved from the fact that they had managed to force the informant to write that the team had not done anything and not found anything. It was submitted that no person would give such a writing for the reason that if nothing was done, there was no occasion to give anything in writing. Learned counsel submitted that this clearly shows that the team was under so much threat that it succumbed to give in writing a clean chit to the offenders.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds does not find any merit in the applications.

7. As has rightly been submitted by learned APP, from the conduct of the petitioners, especially a written note by the opposite party no. 2-informant, with regard to nothing being done by the team and nothing being found is a clear pointer that the officers were put under such threat that they had to succumb and



give such written note to the mob. Further, there cannot be any exception to the law which requires that for possessing medicine without prescription, penal consequences follow and in the present case, there is no justification of possessing large number of medicines without either a license or prescription. Moreover, getting a mob and forcibly taking away of articles seized in a duly conducted exercise and also taking away of the statutory forms and the seizure list as well as putting officers under grave threat and extracting from them some written note, clearly requires to be strictly dealt with.

8. Moreover, the petitioners shall have full opportunity to prove their innocence during trial.

9. For reasons aforesaid, the applications stand dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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