

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 14569 of 2013

Arising Out of P.S. Case No.-160 Year-2010 Thana- RAHIKA District- Madhubani

Ashok Chandra Chaudhary, S/o Sri Satyadeo Chaudhary, Resident of Mohalla- Bengali Tola, Laheriasarai, Police Station- Laheriasarai, District- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Satish Chandra Jha, Advocate
For the State	:	Mr. Lalit Kishore, AG
		Mr. Gyan Shankar, Advocate
		Dr. M. K. Gautam, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 10-04-2019

Heard learned counsel for the petitioner and Mr. Lalit Kishore, learned Advocate General along with learned APP for the State.

2. It appears that in the 7th order dated 09.04.2019, inadvertently the name of Mr. Satish Chandra Jha, Advocate has been mentioned in the appearance column of the petitioner. As has been pointed out by learned counsel for the petitioner, Mr. Satish Chandra Jha, learned counsel has passed away. Accordingly, his name be expunged from the appearance column in the 7th order dated 09.04.2019.



3. The petitioners have moved the Court under Section 482 of the Code of Criminal Procedure, 1973 for the following relief:

“That the petitioner has come up before this Hon’ble court for quashing the order of cognizance dated 13.07.2012 passed by C.J.M., Madhubani in Rahika P.S. Case No. 160/2010 U/S 419, 420, 467, 471, 379 I.P.C./TR No. 3731/12 against the petitioner and the said case was transferred in the court of Sri Subir Kumar, Judicial Magistrate, 1st Class, Madhubani for trial and disposal.”

4. The brief facts of the case have been noted by the Court in paragraphs no. 6, 7 and 8 of the order dated 07.03.2019.

For the sake of convenience, the same is reproduced hereinbelow:

“6. Coming to the merits of the matter, the Court finds that the present case discloses facts which are really disturbing. A sugar manufacturing unit having been taken over by the State Government and the Bihar State Sugar Corporation, the assets relating to the Railway lines of the concerned sugar factory was the subject matter of a writ petition before the Calcutta High Court in which the original purchaser succeeded and there was a further direction that the local authorities of the district would co-operate in the purchaser removing the Railway lines from the place. The same was initially not complied with forcing the original purchaser to again move before the Calcutta High Court alleging contempt of its order in which the Court gave liberty to the petitioner to take delivery of the Railway lines, accessories and fittings, after necessary dismantling of the same from the Bihar State Sugar Corporation of the unit concerned.

7. The petitioner subsequently came to purchase the said assets from the original



purchaser and the petitioner before the Calcutta High Court, as is reflected from the letter of the original purchaser in favour of the petitioner dated 05.08.2010 and the Agreement for Sale between the parties dated 05.08.2010. The petitioner thereafter removed portion of the assets, but was stopped midway and F.I.R. lodged alleging that the assets were the property of the Bihar State Sugar Corporation and there was a direction from the Cane Commissioner vide letter dated 03.09.2010 and subsequently of the P.A. to the Collector, Madhubani dated 04.09.2010 and the Superintendent of Police, Madhubani dated 06.09.2010 as also the Sub Divisional Officer, Sadar, Madhubani dated 08.09.2010 informing that the petitioner was illegally removing the assets of the Bihar State Sugar Corporation. In the same, charge sheet was submitted and summons were issued. However, the petitioner obtained anticipatory bail in the case by order dated 19.02.2013 by a co-ordinate Bench in Criminal Miscellaneous No. 1512 of 2012.

8. From the facts narrated above, the Court finds that the authorities of the State of Bihar have acted in a highly arbitrary and contemptuous manner. When the original purchaser, from whom the petitioner has purchased the assets, had won the case before the Calcutta High Court and in challenge to the same before the Division Bench resulted in dismissal of the appeal by order dated 16.05.2002 in FMAT No.1759 of 1993, in which it was also stated that interim order, if any, stands vacated, and the appeal till date not having been restored, no authority of the State of Bihar could have taken the stand that the property/assets in question belong to the Bihar State Sugar Corporation. There being a positive order in favour of the petitioner, through his vendor, and the same till date not having been interfered with, clearly the petitioner was within his rights to remove the assets and in fact for preventing him, appropriate proceedings were required to be drawn against all concerned, including civil and police officials, not



only for preventing him from doing so but also for lodging criminal prosecution against him.”

5. Yesterday, time was sought by the learned Advocate General to revert to the Court after taking further instructions, as what has been recorded in the order dated 07.03.2019, could not be controverted/answered. Today, supplementary show cause was filed on behalf of the Chief Secretary, Bihar in which the following stand has been taken in paragraph no. 3:

“3. That it is humbly stated that if the petitioner gives an under taking that he will not dismantle the Railway line till disposal of F.M.A.T. No.-1759 of 1993 and CAN No.- 899 of 2008 pending before the Hon’ble Calcutta High Court, This Hon’ble Court may consider to quash the FIR Filed against the petitioner.”

6. On the observation of the Court, that such blank undertaking for the petitioner not to dismantle the Railway line till the disposal of F.M.A.T. No.-1759 of 1993 and CAN No.- 899 of 2008, pending before the Calcutta High Court, could not be justified, learned Advocate General very fairly submitted that at least one month time be given.

7. The Court finds the stand be reasonable.

8. Having regard to the discussions made hereinabove, especially what has been earlier noticed and recorded by this Court in its order dated 07.03.2019, the application is allowed. The entire criminal proceeding arising out of Rahika P.S. Case No.



160 of 2010, including the order dated 13.07.2012, by which cognizance has been taken by the Judicial Magistrate, 1st Class, Madhubani, stands quashed.

9. However, quashing of the F.I.R. would not, for the present, entitle the petitioner and dismantle and take away the Railway line till the disposal of the aforementioned cases before the Calcutta High Court. Such embargo shall be there till 13th of May, 2019. Thereafter, the parties shall be at liberty to pursue matters, in accordance with law.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
U	
T	

