

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.24 of 2017

Arising Out of PS. Case No.-130 Year-2016 Thana- GOVERNMENT OFFICIAL COMP.
District- Rohtas

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Dharmendra Kumar Son of Surendra Kumar Resident of Village-Muzaffarpur,
P.S.-Shahar, District-Bhojpur at Ara

... .. Petitioner/s

Versus

1. The State of Bihar, Through The Principal Secretary, Forest Department, Government of Bihar, Patna
2. The Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Sasaram, District - Rohtas.
3. The Forest Range Officer, Tilauthu, Rohtas at Sasaram

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ambuj Nayan Chaubey
For the Respondent/s : Mr.Ram Balak Mahto

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 08-01-2019

This writ petition has been filed for quashing the Forest Case No. 130 of 2016 dated 13.11.2016 lodged by the Forest Range Officer, Tilauthu, Rohtas before the Sub-Divisional Judicial Magistrate, Dehri-on-Sone (Rohtas) under Sections 33, 41 and 42 of the Indian Forest Act, 1927.

2. On perusal of the complaint, as contained in Annexure-I to the present application, I find that the same was instituted on 13.11.2016 on the basis of written complaint made by the Forest Range Officer, Tilauthu, Rohtas. In his written complaint he has alleged that on 13.11.2016, while he was on patrolling duty on his official vehicle with armed force to prevent illegal quarrying of stone chips, he reached the place of incident on the basis of information received from Town Police Station and with the help of S.H.O, he wrote the registration numbers of nine trucks loaded with illegal stone chips after checking them. All those trucks were found loaded with stone



chips resembling with those quarried from Fazilpur Reserve Forest Area. On the basis of allegation made above, it is alleged that all the absconded truck drivers and owners violated the provisions of Sections 33, 41 and 42 of the Indian Forest Act, 1927 (Bihar Amendment Act, 1989) and accordingly, seizure list was prepared under Section 52 of the Indian Forest Act, 1927 in front of SHO, Town P.S. Dihri.

3. The contention of the petitioner is that he is the owner of three trucks bearing registration no. JH 05 Z-7398, BR 03 R-7314 and BR 01GC-2623. The trucks of the petitioner were carrying 3/4" sized stone chips from the plant of Prakash Stone Works situated at Sonbhadra district, Uttar Pradesh for delivering them at its destination of the purchaser at Naubatpur, Arwal in Bihar under a valid license/permit by paying proper government revenues.

4. His further contention is that the trucks of the petitioner were forcibly stopped by the police officers on NH-2 and were not allowed to go despite showing valid challan, permit and other valid documents shown by the driver. The allegation made in the complaint are mala fide and no offence as alleged under Sections 33, 41 and 42 of the Indian Forest Act is made out.

5. Per contra, learned counsel for the State submitted that the allegations made in the complaint clearly attract the ingredients of the offences alleged. He contended that the defence taken by the petitioner at this stage cannot be made a ground for quashing the prosecution. He also contended that the defence taken by the petitioner can be adjudicated by the trial court at appropriate stage in course of trial.

6. I find substance in the submissions of the learned counsel for the State. The allegations made in the complaint do attract the ingredients of the offence under the Indian Forest Act, 1927. The defence taken by the



petitioner can not be accepted to be true by this Court at this stage. Such defence has to be considered by the trial court at appropriate stage. Since the complaint discloses offence and the court below has entertained the same, no illegality can be found with the proceedings in the court below.

7. In that view of the matter, I see no merit in the writ petition. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

Sushma/Suman/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11-01-2019
Transmission Date	11-01-2019

