

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1239 of 2019

Arising Out of PS. Case No.-881 Year-2018 Thana- BETTIAH CITY District- West
Champaran

Prakash Kumar @ Prakash Kumar Gupta, Son of Bharat Prasad @ Bharat Prasad Gupta, Resident of Village - Kotwali Chowk, P.S.- Bettiah Town, District- West Champaran

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police, Tirhut Range, Muzaffarpur, Bihar.
4. The Deputy Inspector General of Police, Champaran Range, Bettiah, West Champaran.
5. The Superintendent of Police, Bettiah, West Champaran.
6. The Deputy Superintendent of Police, Bettiah Sadar, District-West Champaran.
7. The Officer In charge, Bettiah Town Police Station, Bettiah, District-West Champaran.
8. The Investigating Officer, Bettiah Town P.S. Case No. 881 of 2018 Bettiah, District-West Champaran.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Sanjay Kumar No 7, Advocate Mr. Anant Kumar Mishra, Advocate Mr. Niraj Kumar Singh, Advocate
For the Respondents-State:		Mr. Akash Chaturvedi, AC to SC-11

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 28-08-2019

Heard learned counsel for the petitioner and learned
counsel for the State.

2. This application under Articles 226 and 227 of the
Constitution of India has been filed by the petitioner for quashing
the First Information Report (for short 'FIR') of Bettiah Town P.S.
Case No.881 of 2018 dated 13.10.2018 registered under Sections



30(a) and 56 of the Bihar Prohibition and Excise Act, 2016 (for short the 'Excise Act').

3. Learned counsel appearing for the petitioner submitted that even if the entire allegations made in the FIR are taken as true at its face value, no offence as against the petitioner would be made out. He submitted that from perusal of the FIR itself, it would transpire that the recovery of illicit liquor was made from the shop of Vikash Kumar and not from the shop of the petitioner. In that view of the matter, his implication in the case is merely on account of the fact that he happens to be the brother of the accused Vikash Kumar.

4. On the other hand, learned counsel appearing for the State submitted that in the FIR itself, it is specifically stated that both the brothers are involved in illicit trade of liquor. They live in the joint house. It is true that the shop of the co-accused Vikash Kumar was raided and recovery of huge quantity of illicit liquor was made from it, but the inquiry revealed that the petitioner, one Reena Devi and one another are also involved along with Vikash Kumar in the illicit trade of liquor. He submitted that the allegations made in the FIR would clearly attract the ingredients of the offence alleged under Sections 30(a) and 56 of the Excise Act.



5. Having heard learned counsel for the parties and carefully perused the record, I find that there is specific allegation in the FIR that the petitioner was also involved along with his brother in trade of illicit liquor and recovery of huge quantity of illicit liquor was made from the shop of Vikash Kumar, who lives together with the petitioner in the same house. Merely because the recovery was not made from the shop of the petitioner, the FIR can not be quashed.

6. In that view of the matter, no case for quashing of the FIR is made out.

7. The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.08.2019
Transmission Date	31.08.2019

