

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1270 of 2019

Arising Out of PS. Case No.-21 Year-2019 Thana- GRIYAK District- Nalanda

Kundan Kumar, son of Late Pawan Choudhary, Resident of Village - Ashinpur, P.O.-Dhurlakh, P.S.-Muffasil Samastipur, District-Samastipur, authorized representative of M/s Shiva Enterprises, a partnership firm having its Head Office at 82, Jagannathpur, T.P. Nagar, Meerut (Uttar Pradesh)

... .. Petitioner

Versus

1. The State of Bihar, through the Director General of Police, Bihar at Patna
2. The District Magistrate, Nalanda at Biharsharif
3. The Director General of Police, Patna.
4. The Superintendent of Police, Nalanda at Biharsharif.
5. The Station Head Officer (S.H.O.), Giryak P.S., District- Nalanda.

... .. Respondents

Appearance :

For the Petitioner : Mr. Sanchay Srivastava, Advocate
For the Respondents-State: Mr. Manish Kumar, GP-4

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 03-09-2019

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 order dated 04.07.2019 passed in connection with Giryak P.S. Case No. 21 of 2019 dated 30.10.2019 by the learned Sub Divisional Judicial Magistrate, Nalanda at Biharsharif by which he has rejected the application for release of the vehicle (milk tanker) bearing Registration No. HR-55T-2241.



3. Learned counsel appearing for the petitioner submitted that the petitioner is the authorized representative of M/s Shiv Enterprises, a partnership firm, which is the owner of the vehicle (milk tanker), which was seized in connection with Giriyak P.S. Case No. 21 of 2019 pending in the court of learned Sub Divisional Judicial Magistrate, Nalanda at Biharsharif in relation to the offence under Section 7 of the Essential Commodities Act (for short 'E.C. Act'). He contended that the petitioner filed an application under Section 451 of the Code of Criminal Procedure (for short 'CrPC') for release of the vehicle in question but the same has been rejected on the ground that the court of Magistrate has got no jurisdiction to entertain any application in respect of the vehicle in view of the fact that confiscation proceeding has already been instituted. He pleaded that the petitioner has not yet received any notice in the confiscation case till date. Hence, there was no justification for the learned Magistrate to have rejected the application filed by the petitioner.

4. *Per contra*, learned counsel appearing for the State submitted that from the order impugned dated 04.07.2019 itself, it would be apparent that confiscation proceeding has already been instituted vide Confiscation Case No.32 of 2019 before the District Magistrate, Nalanda in relation to the vehicle in question. He



contended that the learned Magistrate has rightly rejected the application in view of Section 6A(6) of the E.C. Act, as amended for the State of Bihar vide Act 9 of 1978.

5. I find substance in the submission of the learned counsel for the State.

6. The order passed by the learned Sub Divisional Judicial Magistrate clearly goes to suggest that a report dated 03.07.2019 of the Deputy Collector (Law), Nalanda was received in his court wherein it was stated that upon confiscation-proposal of Superintendent of Police, Nalanda, Confiscation Case No.32 of 2019 has been initiated by the District Magistrate, Nalanda in relation to vehicle and other items as seized in the case.

7. The E.C. Act was enacted to safeguard the public interest considering it necessary in the interests of the general public to control the production, supply and distribution of, trade and commerce in, certain commodities through the legislation. It was in the light of the aforesaid public policy that Section 3 of the E.C. Act empowered the State Government to issue notifications and once a notification is issued, it enables the competent authority to confiscate the goods under Section 6-A.

8. It is with this broad object, the provision prescribed under Section 6-A(6) of the E.C. Act, as amended for the State of



Bihar vide Act 9 of 1978 provides that when the Collector is seized with the matter under this section, no Court shall entertain any application in respect of inter alia essential commodities, vehicle used in carrying the essential commodities, so far as its release etc. is concerned.

9. In that view of the matter, I see no illegality in the order impugned whereby the application filed by the petitioner under Section 451 of the CrPC was rejected.

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

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.09.2019
Transmission Date	12.09.2019

