

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12060 of 2015**

Arising Out of PS. Case No.-81 Year-2011 Thana- BAIRIYA District- West Champaran

Chandrika Sah @ Chandrika Prasad Son of Late Dharichan Sah Resident of
Village- Hal Saraiya, P.O, Bhitah, P.s. Bairiya, District- West Champaran.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Akhileshwar Kumar Shrivastva, Adv.

For the Opposite Party/s : Mr.Akhileshwar Dayal. A.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 18-06-2019 Heard learned counsel for the petitioner and learned
counsel for the State.

Petitioner in the present case is challenging the order dated 04.02.2013 passed by the learned Sub-Divisional Judicial Magistrate, Bettiah, West Champaran in E.C. Tr. No. 132/2011 (arising out of Bairiya P.S. Case No. 81/2011), whereby and whereunder the learned trial court has rejected the prayer of the petitioner for discharge under Section 227 of the Code of Criminal Procedure.

Learned counsel for the petitioner submits that the first information report has been lodged on 06.05.2011 by the Block Supply Officer, Bairiya, West Champaran who has submitted a written report to the Block Development Officer saying that on the application of some of the villagers the



informant had enquired about the matter from the applicants and came to know that on 05.06.2011 at 12.30 P.M. petitioner who is a Public Distribution System Shop dealer had loaded two jarkins of kerosene oil containing 50 liters each on the Thela which was being carried by the accused Mohan Prasad for purpose of black marketing. The Thela was allegedly caught and produced by the villagers at Police Station. These facts were verified from the other villagers who had also supported the allegations. On this basis the F.I.R. was lodged, the case was investigated and a charge-sheet was filed against the petitioner on 31.07.2011.

Learned counsel however submits that during the course of investigation the Investigating Officer investigated the shop and verified the stock register which was also verified by the Mukhiya of the Panchayat. It is submitted that nothing wrong was found in course of investigation as even no independent witnesses of the village came forward to support the allegations. Learned counsel submits that independent witnesses whose statement have been mentioned in para no. 21, 22, 23, 24 & 25 of the case diary have supported the version of the petitioner.

On the other hand, learned counsel for the State has



opposed the application saying that it is not the stage where the statement of the witnesses are to be examined by this court. On perusal of the case diary, learned counsel submits that para no. 10, 11, 12 & 13 the witnesses have supported the allegations against the petitioner as mentioned in the F.I.R. It is submitted that at this stage the court is not required to see as to whether in ultimate analysis the materials collected by the police would fetch the conviction or not.

Having heard learned counsel for the parties and on perusal of the records, this court finds that in the impugned order the learned S.D.J.M., has recorded that there are sufficient materials in the case diary to proceed against the petitioner. This fact has been supported by learned A.P.P. representing the State by referring to para no. 10, 11, 12 & 13 of the case diary before this court.

The court agrees with the submission of learned counsel for the State that at this stage the court is not required to see as to whether there are clinching materials to record a conviction against the accused or not. The court is only required to see whether the materials collected by police are sufficient to frame charge and proceed with the matter.

This court finds no reason to interfere with the



impugned order at this stage. The application is dismissed.

Let the trial court proceed with the matter to conclude the trial within a period of six months from the date of receipt/production of a copy of this order.

(Rajeev Ranjan Prasad, J)

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