

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1407 of 2019**

Arising Out of PS. Case No.-124 Year-2002 Thana- GOVERNMENT OFFICIAL COMP.
District- Patna

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1. Ashok Sharma and Anr Ashok Sharma Managing Director, Ms, Aglowmed Limited, 702, Poonam Chamber, PS- Worli, Distt- Mumbai.
 2. Ram Prit Sharma Jai Krishna Singh Managing Director, MS- Otmotive Products India (P) Limited, R-94 TTC Industrial Area, PS- TTC Industrial area, Navi Mumbai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Prakash Chandra Agrawal

For the Opposite Party/s : Mr.Sri Uma Shankar Prasad Singh

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER**

3 02-12-2019 The present petition has been filed for quashing the entire criminal proceedings of Complaint case no. 124(M) of 2002 dated 13.07.2002, filed by the Food Inspector, Patna, pending before the learned S.D.J.M., Patna, under ***Section 16(1) (A) of the Prevention of Food Adulteration Act, 1954.***

The case of the prosecution as per the prosecution report filed by the complainant before the learned court of Chief Judicial Magistrate, Patna is that on 21.02.2002, the complainant had purchased Aglofit 200 mg from M/s Capital Agency, G.M. Road, Patna and the same was sent to the Combined Food & Drug Laboratory, Agamkuan, Patna and upon analysis, a report dated 16.03.2002 was submitted by the



Public Analyst, wherein it was stated as follows :-

“The label on package bears AGLOFIT GRANULES (Nutritional) Protn Supplement) Net 200g, B.No. AFG21 Mfg. Date SER-2001, “As directed by Physicial” and Mfd. By OTO-MOTIVE PRODUCTS (INDIA Pvt. Ltd., R-94, T.C. Industrial Area, Navi Mumbai-400701 but without mentioning details about ingredients and Best Before-Use required under Rule-32 (b) and (I) of the PFA Rules, 1955.”

Thereafter, the complainant had filed the prosecution report, after obtaining sanction from the Civil Surgeon-cum-Chief Medical Officer, Patna before the learned Chief Judicial Magistrate, Patna and the learned court of Sub-Divisional Judicial Magistrate, Patna by an order dated 23.07.2002 had gone through the records and the annexures appended thereto as also other materials available on record including the report of the Public Analyst and the Food Inspector, whereupon he had come to the conclusion that from a perusal of the said records and materials available, a prima facie case is made out against the accused persons including the petitioners herein under ***Section 16(1)(A) of the Prevention of Food Adulteration Act, 1954***, hence had taken cognizance of the said offence and issued summons against the accused persons.

It appears that on 22.03.2003, the accused persons had



filed a petition under Section 205 Cr.P.C. in the aforesaid case no. 124(M) of 2002 to permit them to appear in the court through their Advocate and dispense with their personal attendance and the learned court of Sub-Divisional Judicial Magistrate, Patna by an order dated 19.09.2003, had allowed the said petition of the accused persons including the petitioners herein with the condition that the accused persons shall appear in the court through their Advocate. It appears that thereafter, the petitioners herein had filed a petition bearing Cr. Misc. no. 8404 of 2003 before this Court on 31.03.2003 for quashing of the aforesaid order dated 23.07.2002, by which the learned court below had taken cognizance, however it appears that the same had stood dismissed for default on 25.03.2004 on account of non-compliance of the peremptory order dated 18.03.2004 passed in the said case. Nonetheless, the order-sheet would bear it out that the petitioners had unscrupulously held to ransom the further proceedings of the aforesaid case bearing complaint case no. 24(M) of 2002 on the pretext that the aforesaid Cr. Misc. no. 8408 of 2003 was pending before this Court and the further proceedings of the complaint case had been stayed and this went on upto 05.05.2018 when the learned court of S.D.J.M., Patna discovered that the said Cr. Misc. no. 8404 of 2003 had been



dismissed for default by the Hon'ble Patna High Court on 25.03.2004, hence the learned court below thought it proper to issue non-bailable warrant against the accused persons and it appears that only then the petitioners herein have thought it proper to approach this Court by filing the present petition.

The learned counsel for the petitioners has submitted that there is no intentional delay on the part of the petitioners in approaching this Court and infact, they were under the belief that their earlier petition before this Court is still pending adjudication since nothing had been communicated to them by their Advocate. It is further submitted that on merits, the petitioners have a good case, hence this Court may consider hearing the case on merits.

I have heard the learned counsel for the petitioners and perused the materials on record, from which it is apparent that the complaint was filed in the year 2002, the learned court below had taken cognizance under ***Section 16(1)(A) of the Prevention of Food Adulteration Act, 1954*** on 23.07.2002, which was challenged before this Court by filing a petition bearing Cr. Misc. no. 8404 of 2003, however the same stood dismissed for default on 25.03.2004. I also find from the record that the petitioners have already got exemption from personal



attendance and they have been permitted to appear through their Advocate by the learned trial court by an order dated 19.09.2003. I also find from the record that right from the date of taking cognizance i.e. 23.07.2002 and filing of the aforesaid Cr. Misc. no. 8404 of 2003 as also obtaining the stay order vide order dated 18.03.2004 passed by this Court, which got vacated as a consequence of dismissal of the said petition on 25.03.2004 and till 05.05.2018, the petitioners have grossly misconducted themselves by not subjecting themselves to the process of law and instead, have taken the process of law in their hands by illegally obstructing the trial resulting in over-burdening of the already over-burdened learned courts below. Thus, this Court is of the view that no leavage can be granted to the unscrupulous petitioners and it would be in the interest of justice to relegate them to the proceedings being conducted by the learned court below in the pending complaint case no. 124(M) of 2002. This Court is of the further view that since the Code of Criminal Procedure itself provides certain remedies to the accused persons, neither the order of cognizance in absence of any illegality or jurisdictional error nor the entire criminal proceedings of the aforesaid complaint case is required to be interfered with.

Considering the aforesaid facts and circumstances of



the present case as also for the reasons mentioned hereinabove, I do not find any merit in the present petition, hence the same stands dismissed, however with an indication that the petitioners, if so advised, may take all the pleas which have been taken in the present petition, at an appropriate stage, before the learned trial court.

(Mohit Kumar Shah, J)

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