

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.905 of 2018

Rajesh Khare, S/o Shriprakash Khare, aged about 40 years, R/o Arya Colony, Tifra, Bilaspur, P.S. Sirgitti, Bilaspur, District Bilaspur, Chhattisgarh

---- Applicant

versus

State of Chhattisgarh through P.S. Chakarbatha, Bilaspur, District Bilaspur, Chhattisgarh

--- Respondent

For Applicant	:	Shri Sanjay Agrawal, Advocate
For Respondent	:	Shri Devendra Pratap Singh, Dy. Advocate General

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

1.3.2019

1. Heard.
2. The instant revision has been preferred against the order dated 14.5.2018 passed by the Additional Sessions Judge, Bilaspur in Sessions Trial No.34 of 2015, whereby the Additional Sessions Judge has rejected the application submitted under Section 457 of the Code of Criminal Procedure for taking custody of the seized medical factory.
3. Allegedly, the present Applicant, being a partner of Kavita Laboratories, in the name of said laboratories, supplied a medicine Ciprocin 500 in certain quantity to the Chief Medical and Health Officer, Bilaspur after purchasing the said medicine from Amit Agencies, Raipur, who is the sole distributor of manufacturer M/s Mahavar Pharma Private Limited, Raipur. The medicines supplied was allegedly found to be of sub-standard and containing toxic

elements such as phosphate which are used for killing rats. It is further alleged that on 8.11.2014, on account of use of said medicines/tablets during the tubectomy operation/procedure conducted by the Chief Medical and Health Officer, Bilaspur in a camp organised under the family planning scheme, 13 women died. As a result thereof, an offence under Sections 304(II), 308, 420, 467, 468, 471, 34 of the Indian Penal Code was registered against the present Applicant and co-accused persons. During the course of investigation, on 14.11.2014, police seized the medicines manufacturing factory owned by the present Applicant situated at Industrial Estate, Tifra, Bilaspur. The Applicant preferred an application for taking custody of the said factory. Vide the impugned order dated 14.5.2018, the Additional Sessions Judge has rejected the application on the ground that vide order dated 18.2.2016 passed in Revenue Case No.270/15-16, the Tahsildar, Bilaspur has confiscated the said factory in compliance with the order dated 4.12.2015 passed by the Supreme Court in WPS (Civil) No.95 of 2012.

4. From perusal of the reply submitted by the State/Respondent in the case in hand along with the annexed documents, it reveals that the said factory was seized and sealed by the police of Police Station Chakarbhata in connection with Crime No.350 of 2014. This Court, vide its previous order dated 16.1.2019, has already observed that vide the order dated 4.12.2015 the Supreme Court has not passed any order directing confiscation or attachment of the said factory. It was also observed by this Court that without there being any order for confiscation or attachment of the said factory, the Collector, Bilaspur directed to the Sub-Divisional Magistrate, Bilaspur for

confiscation of the said factory in compliance with the order dated 4.12.2015 of the Supreme Court. Thereafter, on 18.2.2016, in Revenue Case No.270/15-16, the Tahsildar, Bilaspur, referring to the above order of the Supreme Court dated 4.12.2015, ordered for confiscation of the said factory. It was also observed by this Court that despite there being no order for confiscation or attachment of the said factory, order for confiscation thereof has been passed by the Tahsildar, Bilaspur. Therefore, the Collector, Bilaspur was directed that he shall submit his reply that why and under what provisions confiscation of the said factory has been done.

5. In compliance with the aforesaid order of this Court, the Collector, Bilaspur has filed his reply on 6.2.2019. In his reply, the Collector, Bilaspur has submitted that vide letter dated 5.2.2016, the Director of Health Services, Chhattisgarh, Raipur, referring to the orders of the Supreme Court dated 4.12.2015 and 1.2.2016, directed to confiscate the said factory. The Collector has further submitted that in furtherance of the letter of the Director, Health Services, directions were issued to the S.D.M. vide letter dated 18.2.2016 and the S.D.M. directed the Tahsildar to act accordingly. The Tahsildar passed the order dated 18.2.2016, whereby the factory in question has been confiscated. The Collector has further submitted that due to *bona fide* and unintentional mistake on behalf of the then Tahsildar, the order of confiscation of the factory has been passed.
6. The present is a revision preferred against the order dated 14.5.2018 passed by the Additional Sessions Judge, whereby the

application under Section 457 Cr.P.C. for taking custody of the said factory has been rejected by the Additional Sessions Judge, Bilaspur on the ground that vide order dated 18.2.2016 passed in Revenue Case No.270/15-16, the Tahsildar, Bilaspur, referring to the order of the Supreme Court dated 4.12.2015, confiscated the factory in question. It has already been observed by this Court that there was no order for confiscation or attachment of the factory, but despite that, vide order dated 18.2.2016, the Tahsildar confiscated the factory. Since the order for confiscation has already been passed by the Tahsildar and that order for confiscation is not under challenge in the present revision, legality and propriety of the said order of the Tahsildar dated 18.2.2016 cannot be decided by this Court in the instant revision.

7. At this stage, Learned Counsel appearing for the Applicant submits that the instant revision maybe disposed of with a liberty to the Applicant to file an appropriate application/petition before an appropriate forum.
8. In view of the above discussion, the instant revision is disposed of with the aforesaid liberty in favour of the Applicant.

Sd/-

(Arvind Singh Chandel)
Judge