

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.33345 of 2021**

Arising Out of PS. Case No.-76 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.  
District- Gopalganj

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Ranjan Kumar Pandey, @ Sri Ranjan Pandey, Son of Balindra Pandey @  
Balinder Pandey, Resident of Village - Chainpur Hata, P.S.- Hathua, District -  
Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Ravindra Kumar, Advocate

For the Opposite Party/s : Mr.Aditya Narayan Singh.1, APP

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**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA  
ORAL JUDGMENT**

**Date : 03-11-2022**

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

The present petition has been filed by the petitioner  
for quashing/setting aside the cognizance order dated  
22.01.2021 passed by learned Additional District Judge-II-cum-  
Special Judge, Excise, Gopalganj in Excise Case No. 76 of 2020  
whereby and whereunder, the learned trial court has been  
pleased to take cognizance of the offences under Section 30(a)  
of Bihar Prohibition and Excise Amendment Act and Section 22  
of the NDPS Act, 1985 and issued summons against the  
petitioner.

Briefly stated the prosecution case is as follows:

While a routine checking of the vehicles against the



trafficking of illicit liquor was being conducted, one truck was intercepted on which huge quantity of prohibited cough syrups along with cold drinks were laden. The co-accused persons were apprehended who admitted their guilt. The prosecution report was submitted only against two co-accused persons namely Sri Ram Yadav and Rajiv under Section 30(a) of Bihar Prohibition and Excise Amendment Act and Section 22 of the NDPS Act. It further transpires the cold drink was subjected to chemical examination and it was found to be spiked with alcohol. The petitioner who has been working as an employee of the Karnataka Roadlines Pvt. Limited when moved an application before the learned trial court for release of the cold drinks which was a consignment booked by one Kandhari Beverages Pvt. Limited through Karnataka Roadlines Pvt. Limited, the learned trial court took cognizance against him in the aforementioned provision. This cognizance order has been challenged before this Court.

It has been submitted on behalf of the petitioner that the petitioner is merely a booking clerk of the Karnataka Roadlines Pvt. Limited and he has nothing to do with the affairs of the company except the role assigned to him as a booking clerk since 01.04.2019. After the truck was seized along with its



consignment, the petitioner was authorized by the company for getting released the cold drinks for delivering it to the customers on time and in safe condition since, after the period of expiry mentioned on the consignment, the entire consignment would have been spoiled. In order to comply with the direction of his superiors and on the basis of authorization, the petitioner filed an application for release of the seized cold drink, but he was made accused in this case and cognizance has been taken by the learned trial court, though the petitioner was neither the owner of the company nor of the allegedly spiked cold drink were booked at Patna office. Further, the petitioner has no concern with the other co-accused persons or the seized truck. The cognizance order has been taken in a mechanical manner and even though the prosecution report does not mention any wrong doing on the part of the petitioner and no suspicion has been raised against him, still he has been made accused and would have to face the trial if the cognizance order is not set aside. Without any material against the petitioner, it would be sheer abuse of judicial process and would result in miscarriage of justice. Thus, learned counsel submits that the processes of law are meant for protecting the legal rights of the innocent person and it cannot be allowed to be misused and it is a fit case for



exercise of power under Section 482 of the Code of Criminal Procedure to secure the ends of justice. Hence, the cognizance order dated 21.01.2021 be set aside and the proceeding taking place against the petitioner be quashed.

The learned APP appearing on behalf of the State submits that a counter-affidavit has been filed on behalf of the Excise Inspector, Gopalganj wherein he has submitted that the prosecution report dated 04.05.2020 has been filed against only two co-accused persons as already named hereinabove and no aspersion has been cast upon this petitioner for any wrong doing.

I have given my thoughtful consideration to the different aspects of the matter. Considering the facts of the case I do not find myself in a position to approve the order taking cognizance against this petitioner. The learned trial court has nowhere mentioned what was the role of the petitioner in the whole occurrence. Rather the learned trial court has wrongly mentioned the petitioner to be the owner of the beverage (cold drink) seized whereas it is apparent from the record that the petitioner is a staff of a transport company and he was authorized by it to get the consignment of beverages released for handing over the same to the consignee. Merely because he



moved an application for release of the consignment which was found to be spiked and without mentioning the fact as to the manner in which the petitioner was connected with the contraband substances, the learned trial court was not justified in taking cognizance against him. It is apparent from the facts of the case that the petitioner acted on the basis of the authorization made by the superiors of his company which is a transportation company and he is not the owner or receiver of the consignment. So, liability could not be fastened upon him, if the consignment was found to be of contraband substance. Unless something comes on record to show that the petitioner was acting in connivance with other co-accused persons or was in conspiracy with them, taking of cognizance against him is simply bad in law. In allowing the criminal proceedings to take place and the petitioner to appear for trial would be sheer abuse of process of law and his case would be squarely covered under the guidelines enumerated by the Hon'ble Apex Court in the case of *State of Haryana and Others Vs. Bhajan Lal and Others, AIR 1992 SC 604*.

Hence, in the light of the aforesaid discussions, I find it to be a fit case for exercising of the powers under Section 482 of the Code of Criminal Procedure.



Hence, the present petition is allowed and the cognizance order dated 22.01.2021 as well as the entire proceeding arising out of Excise Case No. 76 of 2020 pending in the court of learned Additional District Judge-II-cum-Special Judge, Excise, Gopalganj is hereby quashed qua the petitioner.

**(Arun Kumar Jha, J)**

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