

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48565 of 2016

Arising Out of PS. Case No.-152 Year-2016 Thana- SAMASTIPUR District- Samastipur

KEDAR RAI Son of Late Gopi Rai Resident of Village - Neemchakhedar,
P.S.- Kalyanpur, District - Samastipur, At present Kitchen Supervisor in
Swarg Hotel, P.S.- Town, District - Samastipur

... .. Petitioner/s

Versus

1. The State Of Bihar, Through The District Magistrate, Samastipur. Bihar
2. The Superintendent of Police, Samastipur. Bihar
3. The Station House Officer, Town Thana, Samastipur. Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Jay Prakash Sharma
For the Opposite Party/s : Mr.Smt. Anita Kumari Singh

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

2 12-05-2022 This is an application under Section 482 of the Cr.P.C.

for quashing the FIR of Crime No. 152 of 2016 registered with

Samastipur Town Police Station against the applicant for the

offences punishable under Sections 47, 54, 57, 63 of Bihar

Excise Act.

Heard the learned counsel appearing for the applicant.

He vehemently argued that the FIR itself shows that house of

Shambhu was searched and the illicit liquor was found therein.

The applicant, according to the prosecution case, is merely

tenant of house of Shambhu and therefore the FIR registered

against the applicant deserves to be quashed and set aside.

The learned Additional Public Prosecutor appears for



the respondents.

I have considered the submissions so advanced and considered the averments made in the FIR.

It is well settled that powers of this Court under Section 482 of the Cr.P.C. have to be exercised sparingly when there is abuse of process of law. Perusal of the FIR lodged by the Police Officer of Nagar police station, Samastipur shows that the police has received secret information that the dealing in illicit liquor is going on at the house of Shambhu. Accordingly, the first informant along with his team members raided the house of Shambhu. In presence of two independent witnesses, that house was searched. It was found that the second floor of the house of Shambhu was in possession of the present applicant as tenant. Search of second floor of the house of Shambhu which was in possession of the applicant as tenant has resulted in recovery of huge haul of illicit liquor.

The illicit liquor recovered from the spot came to be seized by preparing seizure memo.

In this view of the matter, it cannot be said that prosecution launch against the applicant is abuse of process of law. Similarly, it cannot be said that it is a case of no evidence against the present applicant. There is prima facie evidence



against the applicant and recovery has been effected in pursuant to the raid conducted by the police from the premises which were in possession of the applicant.

In this view of the matter, no case for interference in exercise of jurisdiction under Section 482 of the Cr.P.C. is made out. The application is accordingly rejected.

(A. M. Badar, J)

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