

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44859 of 2021

Arising Out of PS. Case No.-357 Year-2018 Thana- DARIYAPUR District- Saran

BALRAJ GOEL son of Late Som Prakash Goel Director, Reva Industries Limited, Plot No. 28, Sector - 25, Ballabhgarh, P.S. N.H.5, N.I.T., Faridabad, Haryana.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate Mr. Rajeev Ranjan, Advocate Mrs. Vaishnavi Singh, Advocate
For the Opposite Party/s :		Mr. Binod Kumar No. III, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 28-07-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Initially a counter affidavit was filed on behalf of the Superintendent of Police, Saran at Chapra and this Court by order dated 12.05.2022 very clearly recorded that the counter affidavit filed by the State does not inspire confidence and it seems that it has been filed without any application of mind, as such, the Superintendent of Police, Saran at Chapra was directed to examine the matter himself and, if required, to get the matter further investigated after sending a responsible police officer to Faridabad and thereafter to file a detailed counter affidavit after examining the records produced by the petitioner as also the connecting material.



The present counter affidavit filed on behalf of the Superintendent of Police, Saran at Chapra is in compliance with the order dated 12.05.2022.

The present application has been filed seeking quashing of the order dated 22.03.2021 passed by the learned Additional Sessions Judge-II-cum-Special Judge, Excise, Saran in Excise Trial No. 294 of 2019 arising out of Dariyapur P.S. Case No. 357 of 2018, whereby the learned court below took cognizance against the petitioner of the offences punishable under Sections 188, 420, 467, 468, 471 of the Indian Penal Code read with Sections 30, 30(a) and 41 of the Bihar Prohibition and Excise Act.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in the said case. He further submits that the present counter affidavit filed on behalf of the Superintendent of Police, Saran at Chapra clearly records that:-

“4. That answering deponent humbly further submits that the Superintendent of Police (Saran, Chapra) has already complied the order dated 12.05.2022 passed by this Hon’ble Court in true spirit and get inquired the matter sincerely by sending responsible police office to Faridabad and called for detail enquiry report in this case related to Dariyapur P.S. Case No. 357/18 instituted on dated 03.11.2018 under Sections 30/30A/38/41 of Bihar Liquor (Excise) Prohibition and Production Act 1916.



5. That answering respondent humbly submits that as per investigation report vide Memo No. 4085 dated 16.07.2022 submitted by the answering respondent to the Superintendent of Police (Saran) evidences that petitioner accused in this case has sold his Truck No. HR 29V-0736. But the concerned I.O. Mr. Charanjeet Kumar concealing the real facts implicated the petitioner Balraj Goyel as accused in this case. The departmental proceeding has already been initiated against said I.O. The said I.O.-cum-A.S.I. Charanjeet Kumar has gone four times to Haryana after taking permission from Deputy I.G. Saran but did not enquire fairly regarding ownership of alleged confiscated Truck No. HR 29V-0736 and implicated the petitioner as accused in this case. By conducting unfair investigation without acknowledging the real facts to the superior police officer, the said I.O. submitted charge-sheet in the concerned Court. As scrap, said Truck was sold by Balraj Goyel the petitioner on dated 28.09.2017 to one Gopal Kaushal son of Omkar Nath, resident of H. No. 4135, Kharar District - Mohali (Punjab). Further Gopal Kaushal has sold the said truck on dated 29.12.2017 to Pappu Kumar son of Ramesh Sahni resident of Chakki, Jamalabad P.S. Motipur District- Muzaffarpur. He is the real owner of said alleged Truck and being as owner of said Truck is prima facie involved in this case by transporting illicit liquor. The petitioner is not involved in this case being as Manager of Riwa Industries Pvt. Ltd. No criminal antecedent is found against the petitioner-accused.

6. That the answering respondent humbly submits further that the petitioner accused Balraj Goyel has sold said alleged Truck to Gopal Kaushal said above much prior to the occurrence and before lodging of F.I.R. concerned with this case.”

Learned counsel, thus, submits that in view of the specific averments made in the counter affidavit, the present order of cognizance automatically requires to be interfered with.

Counter affidavit on behalf of the Superintendent of



Police, Saran at Chapra has been filed by Mr. Madan Kumar, learned A.P.P. on 26.07.2022 through on-line.

Learned A.P.P. very fairly submits that in view of the averments made in the counter affidavit, it appears that the I.O. of the case has falsely implicated the petitioner.

Considering the submissions made by the learned counsel for the petitioner, the order dated 22.03.2021 passed by the learned Additional Sessions Judge-II-cum-Special Judge, Excise, Saran in Excise Trial No. 294 of 2019 arising out of Dariyapur P.S. Case No. 357 of 2018 is hereby quashed with respect to the petitioner only and this application is allowed.

(Satyavrat Verma, J)

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