

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.731 of 2017

Arising Out of PS. Case No.-23 Year-2017 Thana- KAMTAUL District- Darbhanga

Sanjay Singh, son of late Chandeshwar Singh, Resident of Village-Ratanpur,
P.S.-Kamtaul, District-Darbhangha.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director General of Police, Bihar, Patna.
3. The District Magistrate, Darbhanga.
4. The Superintendent of Police (S.P.), Darbhanga.
5. The Superintendent of Excise Department, Darbhanga.
6. The S.H.O., Kamtaul P.S., Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Neeraj Kumar Alias Sanidh, Adv.
For the Respondent/s : Mr.Vivek Prasad, GP- 7

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

6 19-07-2022 Heard learned counsel for the petitioner and Mr.
Vivek Prasad, learned GP-7 for the State.

Petitioner in this case is seeking quashing of Kamtaul
P.S. Case No.23 of 2017 dated 14.02.2017 registered for the
offences punishable under Section 420 of the Indian Penal Code
and Section 35(C) of the Bihar Prohibition and Excise Act,
2016.

Learned counsel for the petitioner has raised two fold
issues for purpose of quashing of the FIR.

Learned counsel submits that on a bare perusal of the
FIR it would appear that police conducted a raid in the gumati
of the petitioner from where 600 pieces of life thunder volt and



kingfarmer premium beer super strong brand each containing 650 ml were seized. It was alleged that the petitioner was selling the said products in violation of Section 35(C) of the Bihar Prohibition and Excise Act, 2016. His submission is that in this case only two bottles out of 600 pieces of bottles seized by the informant were sent to the FSL.

Referring to the FSL report which has been enclosed as Annexure-R/1 with the counter affidavit of the respondents filed today, learned counsel for the petitioner submits that the description of the articles fallen in the report would show that only two bottles were sent for examination and the result of the said examination has revealed that glass bottles marked as A & B were containing the intoxicating ingredients the percentage of which has been found out to be 6.5% (V/V). Learned counsel submits that the manner in which the sampling was done, it does not inspire confidence and is not in accordance with the procedures laid down on this behalf.

Mr. Vivek Prasad, learned GP-7 for the State submits that in this case the investigation has been kept pending under a bonafide belief that because of the interim order of this Court passed on 28.06.2017 directing the respondents not to take any coercive action against the petitioner, no further steps may be



taken to the detriment of the petitioner. His submission is that even filing of a charge-sheet would have been to the detriment of the petitioner so the respondents have restrained themselves from submitting the charge-sheet. It is submitted that if this Court grants a reasonable time to complete the investigation and submit police report in terms of Section 173 Cr.P.C., the same will be done within a reasonable period.

It is his further submission that on the face of the FSL report showing that ethyl alcohol was found at the rate of 6.5% (V/V) in the two bottles, this Court sitting in its extraordinary writ jurisdiction may not take a view at this stage when a prima-facie material exists and investigation of the case is still pending.

Having regard to the submissions noted hereinabove, this Court is persuaded to agree with the submissions made on behalf of the State. Although this Court is of the considered opinion that merely because an order directing no coercive action against the petitioner was passed, the respondents had no reason to believe that the entire investigation shall remain pending and if they were of any such opinion the correct view would have been to seek a clarification from this Court but that has not been done and investigation has been kept pending for



about five years.

This Court while directing the respondents to take note of this aspect of the matter for any other pending litigation, gives an opportunity to the respondents to complete the investigation and submit a police report in terms of Section 173 Cr.P.C. within a period of four months from the date of communication of this order.

Let this be recorded that this Court has not formed any opinion and whatever have been recorded are mere observations which would not influence an independent exercise on the part of the investigating agency.

This application stands disposed of with the aforesaid directions to the respondents and with liberty to the petitioner that in case he finds himself aggrieved by any further action of the respondents and gets a fresh cause of action he may seek his remedy against the same in accordance with law.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

