

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25591 of 2017

Arising Out of PS. Case No.-133 Year-2006 Thana- BRAHMPUR District- Buxar

Santosh Sah, Son of Ishwari Sah @ Ishwari Pd. Sah, Resident of Village-
Kant, P.S.- Brahampur, District- Buxar, Bihar.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sudha Chandra, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT

Date : 05-10-2023

Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. The learned counsel for the petitioner submits that the present quashing application has been filed seeking quashing of the entire criminal proceedings arising out of Brahampur P.S. Case No. 133 of 2006, G.R. No. 1318 of 2006, pending in the Court of learned Sub-Divisional Judicial Magistrate, Buxar. The learned counsel for the petitioner before making submissions on merits of the case submits that the F.I.R. was instituted on 14.08.2006, thereafter, police after investigation submitted charge-sheet on 07.10.2006, the learned Trial Court took cognizance of the offences on 10.10.2006 and thereafter, charges were framed on 15.12.2006. The learned counsel submits that from bare perusal of the dates as recorded



hereinabove, it would manifest that from the date of institution of the F.I.R. the charges were framed against the petitioner within four months, It is next submitted that petitioner thereafter, was ready to face trial but not a single witness till date has appeared in the case and the case is lingering for the last more than 17 years. It is thus submitted that this amply demonstrates that how willy litigants, in order to harass innocent citizens, implicate them in false cases and when charges are framed and trial commences neither the police nor the informant ensure timely conclusion of the trial.

3. The learned counsel next submits that from perusal of the allegation as alleged in the F.I.R., it would manifest that the Block Supply Officer, Dumraon, gave a written application to the S.H.O, Brahmapur on 14.07.2006 alleging therein that *Mukhiya* of Gahona (Brahmapur) panchayat has informed that one Mahesh Lal is indulging in black marketing of kerosene oil and one Santosh Sah (petitioner) is apprehended with about 75 liters of kerosene oil and thus, requested for taking proper legal action, accordingly, the F.I.R. was instituted.

4. The learned counsel for the petitioner submits that the allegations as alleged in the F.I.R. does not inspire



confidence for the reason that the informant, who is Block Supply Officer, Dumraon, was not present at the place of occurrence and the F.I.R. came to be instituted on some oral information of the *Mukhiya* alleging that certain persons were indulging in black marketing of kerosene oil and the petitioner was apprehended by local people with 75 liters of kerosene oil, it is next submitted that petitioner is not a P.D.S. dealer rather is a private citizen and at best it can be alleged that he was carrying 75 liters of kerosene oil. It is next submitted that the F.I.R. does not disclose as to which control order was violated. It is further submitted that no prosecution under Section 7 of the E.C. Act could have been initiated against the petitioner, as petitioner is not a P.D.S. dealer rather is a private citizen. The learned counsel next submits that this perhaps explain as to why neither the informant nor the witnesses and the police are taking interest in getting the trial concluded, it is next submitted that legally also the case cannot proceed against the petitioner as he is a private person and not a P.D.S. dealer and thus, no offence under Section 7 of the E.C. Act can be attributed against him.

5. The learned counsel next relies on an order of this Hon'ble Court in the case of *Arvind Kumar vs. State of Bihar* reported in *2014 (4) PLJR 255* wherein this Hon'ble



Court, on a similar fact that the petitioner of the said case being a private person cannot be proceeded under Section 7 of the E.C. Act, quashed the entire proceeding.

6. Mr. Jharkhandi Upadhyay, learned A.P.P. for the State, opposes the quashing application.

7. Considering the submissions made by the learned counsel for the petitioner, the entire proceedings arising out of Brahampur P.S. No. 133 of 2006, G.R. No. 1318 of 2006, pending in the Court of Sub-Divisional Judicial Magistrate, Buxar, is hereby quashed.

8. The quashing application is thus allowed.

(Satyavrat Verma, J)

Nilmani/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	11.10.2023
Transmission Date	N.A.

