

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30258 of 2023

Arising Out of PS. Case No.-36 Year-2022 Thana- VAISALI COMPLAINT CASE District-
Vaishali

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1. ASHOK KUMAR AGARWAL Son of Late Jhawarmal Agarwal R/o Coommon BI, D.P- 62, Block D, New Alipore, P.S. New Alipore, Kolkata, West Bengal
 2. Saroj Kumar Medhi Son of Chandi Prasad Medhi R/o Tiniali, Flat no. B/63, Kiron Housing Complex, Adabari, Pandu, Kamrup, P.S. - and Distt. - Kamrup, Assam

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Manoj Kumar Chaudhary, Factory Inspector, Vaishali Circle, Hajipur Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajesh Ranjan
For the Opposite Party/s : Mr.Ram Priya Sharan Singh

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 05-05-2023 Heard learned counsel for petitioner and learned
Additional Public Prosecutor.

This application is filed for quashing the order dated 05.07.2022 passed by the learned Chief Judicial Magistrate, Hajipur (Vaishali), in complaint case no. C-2 36/2022 whereby the learned Chief Judicial Magistrate has taken cognizance of offence under section 92 and 96A of the Factory Act, 1948 against the petitioners.



The limited argument of the petitioner is that the cognizance has been taken against the petitioner in a printed format and there has been no application of mind by the learned Magistrate.

Learned counsel for the petitioner has relied upon a Judgment of the Hon'ble Supreme Court in the case of ***Pepsi Foods Ltd. And Anr. Vs. Special Judicial Magistrate and Ors. 1998 (2) SCC 749*** and on a order of this Court in ***Cr. Misc. No. 34891 of 2013 (Nokia Siemens India Pvt. Ltd Vs. State of Bihar)*** dated 12.08.2016.

Learned counsel for the State has vehemently opposed this application but has not been able to controvert the argument of the application.

Considering the law laid down in the case of ***Pepsi Foods Ltd. And Anr. Vs. Special Judicial Magistrate and Ors. 1998 (2) SCC 749***, this application is allowed.

The order dated 05.07.2022 passed by the learned Chief Judicial Magistrate, Hajipur (Vaishali), in complaint case no. C-2 36/2022 is hereby quashed and the matter is remitted back to the Magistrate to apply his mind on the materials available on record before taking cognizance and the cognizance order should be a speaking order in view of the law laid down



in *Pepsi Foods Ltd. And Anr. Vs. Special Judicial Magistrate
and Ors. 1998 (2) SCC 749.*

(Sandeep Kumar, J)

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