

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51452 of 2015

Arising Out of PS. Case No.-7 Year-2015 Thana- GOVERNMENT OFFICIAL COMP.
District- West Champaran

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1. R.S. Sachan Son of Late Hari Prasad Sachan presently working as General Manager Cane Development of Jay Shree Resident of Jay Shree Sugar Mill Campus P.S.- Majhauria District West Champaran
 2. Nand Lal Pandey Son of Rajbali Pandey presently working as Deputy General Manager (Cane) of Jay Shree Sugar Mill, Ma Resident of Jay Shree Sugar Mill Campus P.S.- Majhauria District West Champaran

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sushmita Mishra
For the Opposite Party/s : Mr.Dr.Rabindra Kumar App

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

9 18-08-2023 Heard learned counsel for the parties.

2. Learned counsel for the petitioners submit that petitioner no. 1 has died, so he seeks permission to withdraw the application on behalf of petitioner no. 1.

3. Permission is accorded.

4. Accordingly, the application on behalf of petitioner no. 1 is dismissed as having been withdrawn.

5. This application has been filed for quashing of the order dated 16.06.2015 passed by learned C.J.M., Bettiah, West Champaran in Office Complaint No. 07/15 registered under Section 52 of the Bihar Sugarcane (Regulation of Supply and



Purchase) Act, 1981.

6. As per prosecution case, management of Majhauria Sugar Mill has violated the departmental direction contained in letter no. 1958 dated 09.09.2014 by paying in cash the price of sugarcane to the sugarcane growers and the payment was made through middleman. It is further alleged that in crushing season 2013-14 on purchase centres namely Rampur Chapkahian, Balhan and others there was illegal extraction of Rs. 100-150 by the workmen and transporter of the concerned sugar mill which is a violation of the aforesaid departmental direction. It is further alleged that concerned mill has violated Section 43(4) and (5) of the Bihar Sugarcane Act.

7. Learned counsel for the petitioner no. 2 has assailed the impugned order on the following grounds.

(i) The order taking cognizance is in printed format and therefore he suffers on non-application of mind.

(ii) The order by which sanction has been granted is a cryptic two line order and the same cannot be sustained.

(iii) The sugar mill has not been made accused in this case and therefore petitioner cannot be held vicariously liable for the acts of the sugar mill without making the sugar mill as a party.



8. I have considered the submission of learned counsel for the petitioner no. 2.

9. In my considered opinion, this application is bound to succeed as the cognizance order is a cryptic order and the same cannot be sustained in view of the law laid down by this Court in the case of ***Bishnu Kumar Surekha @ B.K. Surekha & Ors Vs. The State of Bihar & Ors.*** reported in ***2017 (3) PLJR 958***. Moreover, the sanction for prosecution is again a cryptic and non-speaking order and the prosecution of the petitioner cannot continue on the basis of the sanction order which is no order again in the eye of law.

10. The third submission of learned counsel for the petitioner no. 2 also finds favour with this Court in view of the law laid down in the case of ***R. Kalyani Vs. Janak C. Mehta (2009) 1 SCC 516*** that to prosecute a person working in a corporate entity/company like sugar mill, the sugar mill should have been made accused and the petitioner cannot be held cariously liable for alleged violation done by the sugar mill without making the sugar mill a party. The following paragraphs no. 15 and 16 are quoted hereinbelow:

(1) The High Court ordinarily would not exercise its inherent jurisdiction to quash a criminal proceeding and, in particular, a First Information Report unless the allegations



contained therein, even if given face value and taken to be correct in their entirety, disclosed no cognizable offence.

(2) For the said purpose, the Court, save and except in very exceptional circumstances, would not look to any document relied upon by the defence.

(3) Such a power should be exercised very sparingly. If the allegations made in the FIR disclose commission of an offence, the court shall not go beyond the same and pass an order in favour of the accused to hold absence of any mens rea or actus reus.

(4) If the allegation discloses a civil dispute, the same by itself may not be a ground to hold that the criminal proceedings should not be allowed to continue.

16. It is furthermore well known that no hard and fast rule can be laid down. Each case has to be considered on its own merits. The Court, while exercising its inherent jurisdiction, although would not interfere with a genuine complaint keeping in view the purport and object for which the provisions of [Sections 482](#) and [483](#) of the Code of Criminal Procedure had been introduced by the Parliament but would not hesitate to exercise its jurisdiction in appropriate cases. One of the paramount duties of the Superior Courts is to see that a person who is apparently innocent is not subjected to persecution and humiliation on the basis of a false and wholly untenable complaint.

11. In view of the discussions made above, this application is allowed.

12. Learned APP has argued the case on the basis of his



counter affidavit but could not meet the arguments of the learned counsel for the petitioner no. 2 because of the inherent defects in the cognizance order, the sanction order.

13. The entire prosecution of the petitioner no. 2 and the order taking cognizance dated 16.06.2015 passed by learned C.J.M., Bettiah, West Champaran in Office Complaint No. 07/15 against petitioner no. 2 is hereby quashed.

(Sandeep Kumar, J)

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