

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2110 of 2017

Arising Out of PS. Case No.-110 Year-2017 Thana- ALAMNAGAR District- Madhepura

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Subodh Kumar Purbey, Son of Late Dinanath Purbey, Resident of Kala Balua,
Police Station- Raniganj, District- Araria.

... .. Petitioner

Versus

1. The State of Bihar through District Magistrate, Madhepura
2. The Sub-Divisional Officer, Udakishunganj, Madhepura.
3. The District Supply Officer, Madhepura.
4. The Block Supply Officer, Alamnagar, Madhepura.
5. The Inspector, Weights and Measure, Udakishunganj.
6. The Superintendent of Police, Madhepura.
7. The Officer Incharge, Alamnagar Police Station, Madhepura.

... .. Respondents

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Appearance :

For the Petitioners	:	Mr. P. N. Shahi, Senior Advocate Mr. Mukesh Kumar, Advocate
For the Respondent/s	:	Mr. S. Raza Ahmad, AAG-5 Mr. Md. Shahid Siddiqui, A.C. to AAG-5

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT
Date : 03-04-2023

Heard Sri P.N. Shahi, learned senior counsel,
assisted by Sri Mukesh Kumar, learned counsel for the
petitioner and Md. Shahid Siddiqui, A.C. to AAG-5 for the
State.

This application has been filed for quashing of
F.I.R. vide Alamnagar P.S. Case No. 110 of 2017 registered for
the offences under Sections 419 and 420 of the Indian Penal



Code and under Section 7 of the Essential Commodities Act.

As per the F.I.R. the petrol pump of co-accused M/S Shashiraj Fuel Centre, Alamnagar was inspected by a team constituted by the District Magistrate, Madhepura. During inspection, it was found that the fuel dispensed from the nozzle was less than the actual fuel delivered to the customers. Since the petitioner was Inspector of Weights and Measure, it was suspected that he was in collusion with the proprietor of the said petrol pump and accordingly, F.I.R. was lodged against the accused persons.

Learned senior counsel for the petitioner submits that the present F.I.R. is violative of the provisions of Section 51 of the Legal Metrology Act, 2009 as the aforesaid Section specifically bars the application of the provisions of the Indian Penal Code in an offence relating to weights and measure.

In support of his submissions, learned senior counsel for the petitioner has relied upon a judgment of a co-ordinate Bench of this Court passed on 24.11.2017 in Cr.W.J.C. No.2083 of 2017.

I have perused the aforesaid judgment dated 24.11.2017 and found that the issue involved in this case has already been decided in the aforesaid judgment.



It will be relevant to quote paragraph no.10 of the aforesaid judgment, which reads as under:-

“10. From the above discussion, it is evident that the impugned FIR violates the provisions of Section 51 of the Legal Metrology Act, 2009 which specifically bars the application of the provisions of the Indian Penal Code when the offence alleged is with regard to weights and measures. Further the offence under Section 30 of the Legal Metrology Act, 2009 which might have been applicable in this case is punishable with fine only and is compoundable also. The same has already been compounded with the main accused. Only suspicion is there against the petitioner which is not sufficiently explained pointing out the involvement of the petitioner. Hence, criminal prosecution of the petitioner would amount to an abuse of the process of the Court.”

For the reasons recorded in the aforesaid paragraphs, this application also deserves to be allowed since the F.I.R. against the petitioner is nothing but an abuse of the process of the Court.

Accordingly, this application is allowed and F.I.R. vide Alamnagar P.S. Case No. 110 of 2017 registered for the offences under Sections 419 and 420 of the Indian Penal Code



and under Section 7 of the Essential Commodities Act and all consequential proceedings arising out of the aforeasid F.I.R. are quashed

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	06.04.2023.
Transmission Date	

