

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46069 of 2016

Arising Out of PS. Case No.-166 Year-2014 Thana- BARAULI District- Gopalganj

Abhishek Kumar Sharma, son of Sri Sitaram Sharma, resident of Village- Bhavrajpur, P.S. Andar, District Siwan at present employed as First Time Activation FTA Spoke officer of Bharti Airtel Limited, a company incorporated under the Companies Act having its registered office at Bharti Crescent, 1 Nelson Mandela Road, Vasant Kunj, Phase-II P.S. Vasant Kunj, New Delhi and local office at Plot no. 18, Patliputra Industrial Area, P.S. Patliputra, District – Patna.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Rajesh Ranjan, Advocate

Mr. Md. Farooq, Advocate

For the Opposite Party/s : Mr.Sri Nityanand Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 24-06-2024

Heard Mr. Rajesh Ranjan, learned counsel for the petitioner and learned A.P.P. for the State.

2. The present quashing petition has been filed to quash the order dated 15.01.2016 passed by learned Judicial Magistrate - 1st Class, Gopalganj in Barauli P.S. Case No. 166/2014, G.R. No. 3271/2014, Tr. No. 1808/2016, whereby and whereunder learned Magistrate has taken cognizance for the offence under Section 471 and 120B of



the Indian Penal Code and issued process against the petitioner and other accused persons.

3. The brief facts of the present case is that while the informant, who was posted as Sub-Inspector, Barauli Police Station, in course of investigation of P.S. Case No. 160/2014, reached Badharia Bazar where the CAF of SIM No. 7763896705 was taken, he found that said SIM was issued to one Munna Kumar Tiwari, son of Tunna Tiwari, resident of village – Bharatpur, Circle Panchrukhi, District – Siwan. When the said address was verified by the informant, it was found that there was no such person resided. The informant stated that the ID attached with the form of SIM having ID No. AIG 1206541 was incorrect. The informant further stated that the SIM was issued by one Pushpendra Singh, owner of M/s Milan Mobile, who informed the informant that he sent the Voter I-Card and photo to the distributor of M/s Airtel, namely, Singh Telecom, who, in turn, said that the DOG Center has activated the SIM without verifying the documents. The informant alleged that the accused persons including the petitioner have conspired



together to activate the SIM on the basis of forged documents.

4. Mr. Rajesh Ranjan, learned counsel appearing on behalf of the petitioner submitted that implication of this petitioner appears only being an employee of M/s Bharti Airtel Company Limited (in short the "Company") where he was under obligation to activate the purchased SIM. It is further submitted that the responsibility as per government circular (Annexure '2' of the present petition) as to verify the documents and I-Card was of the person who collected the documents of customer at the point of sale. It is further submitted that the Company was not arrayed as an accused in this case as to absolve the vicarious liability qua petitioner. In support of submission, learned counsel relied upon the legal report of Hon'ble Supreme Court in the matter of **Sushil Sethi vs. State of Arunachal Pradesh** reported in **(2020) 3 SCC 240**.

5. Learned A.P.P. for the State, while opposing the prayer, fairly conceded that petitioner is the employee of the Company.



6. In view of the aforesaid factual and legal submissions, the impugned order dated 15.01.2016 passed by learned Judicial Magistrate - 1st Class, Gopalganj in Barauli P.S. Case No. 166/2014, G.R. No. 3271/2014, Tr. No. 1808/2016, *qua* petitioner is hereby quashed and set-aside alongwith all its consequential proceedings.

7. Accordingly, this application stands allowed.

8. Let a copy of this judgment be sent to the learned trial court forthwith.

(Chandra Shekhar Jha, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.06.2024
Transmission Date	25.06.2024

