
(2008) 08 PAT CK 0171

In the Patna High Court

Case No : Criminal Miscellaneous No. 1596 of 2006

Ahmad Hussain and Another

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 20-08-2008

Acts Referred:

Forest Act, 1927 — Section 41, 42

Citation : (2009) 1 PLJR 287

Hon'ble Judges : Abhijit Sinha, J

Bench : Single Bench

Advocate : Bhola Prasad and Sanjeev Kumar Singh, for the Appellant;
Jharkhandi Upadhyay, for the Respondent

Judgement

Abhijit Sinha, J.—This application has been filed for quashing of order dated 27.3.2004 passed by the learned Chief Judicial Magistrate, Kishanganj, in Complaint Case No. 79 of 2002, T.R. No. 349 of 2005, wherein and whereby cognizance has been taken for offences under Sections 41 and 42 of the Indian Forest Act. A further prayer has been made for the quashing of the entire criminal proceeding pending in the Court of learned Chief Judicial Magistrate, Kishanganj. The prosecution case based on the prosecution report of one Bhuneshwari Pd. Yadav, Forestor, Thakurganj-cum-Pothiya, Forest Beat Area, inter alia is that on 24.10.2002 at about 5 P.M. when he alongwith Forest Guard, Ram Chandra Prasad Yadav, on the order of the Range Officer, visited Etal Basti in front of Shukla Timber Saw Mill at Thakurganj, he found illegal timber of different species and size stacked and from local inquiries it was learnt that the timber belonged to one Amal Kumar Devnath and two others. It was further alleged that the aforesaid timber had been transported without any transit permit and as such the allegedly illegal stored timber were measured and after giving seizure hammer mark and preparing a seizure list was handed over to one Dilip Shukla on Jimmanama.

2. It has been submitted on behalf of the petitioners that timber had been validly

purchased by Amal Kumar Devnath at the auction held by the Railways as the same belonged to the Railways and the said Amal Kumar Devnath who alongwith the petitioners had been made to figure as accused in the prosecution report had moved this Court in Cr. Misc. No. 41463 of 2005 (Amal Kumar Devnath @ Vadhadas vs. The State of Bihar & Ors.) and this Court by order dated 27.4.2006 had been pleased to direct to raise all the issues before the Court below who in turn was directed to dispose of the matter in accordance with law.

3. Since the case of the petitioners is similarly situate as that of Amal Kumar Devnath, it would only be appropriate that similar orders as in Cr. Misc. No. 41463 of 2005 is passed herein.

4. Accordingly, the petitioners are directed to raise all the issues raised herein before the Court below who will dispose of the matter in accordance with law. With the aforesaid observations and directions this application is disposed of.