

(2007) 02 PAT CK 0039

In the Patna High Court

Case No : Criminal Miscellaneous No. 3386 of 2007

Birendra Kumar Gupta

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 05-02-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 420

Citation : (2007) 2 PLJR 101

Hon'ble Judges : Ghanshyam Prasad, J

Bench : Single Bench

Advocate : N.K. Agrawal, D.N. Tiwari and Saket Tiwary, for the Appellant;
Gopesh Kumar, for the Respondent

Final Decision : Allowed

Judgement

Ghanshyam Prasad, J.—Heard. This application u/s 482 Cr.P.C. has been filed to quash the order of cognizance dated 11.9.2006 passed by C.J.M., Patna in Pirbahore P.S. Case No. 157 of 2006 which is now pending in the Court of Shri D.M. Tripathi, Judicial Magistrate 1st Class, Patna. The learned C.J.M. has taken cognizance against the petitioner u/s 27(B)(ii) of the Cosmetics and Drugs Act as well as u/s 420 of the I.P.C.

2. On perusal of fardbeyan (Annexure-1), it would appear that on 25.5.2006 the business premises of the petitioner was raided by the informant and other and found huge quantity of different medicines stocked in his go down along with some contraband medicines without having any licence under Drugs and Cosmetics Act. Accordingly, all the medicines were seized vide seizure list which is annexed with the fardbeyan. Samples of the medicines were also sent to the Bihar Drugs Control Laboratory, Government of Bihar for chemical analysis.

3. It is submitted on behalf of the petitioner that the prosecution of the petitioner is bad and illegal and it is misuse of process of the court. On the relevant date of raid, the petitioner had valid licence under the Drugs and Cosmetics Act, 1940.

In support of it, Annexure-2 series have been filed. It is further submitted that the chemical analyst did not find any violation of limits laid down in Schedule-IV of the Drugs and Cosmetics Act and rules. In support of it, the petitioner has filed Annexure-3 series.

4. Perused the entire record as well as the annexures filed by the petitioner. It appears that on the alleged date of the raid, the petitioner had a valid licence issued by the competent authority. The licence was valid upto 31.12.2006. The licence would also go to show that the place of business is Shri Ram Palace, Bihari Sao Lane, Patna from where the medicines were seized by the informant and other raiding party. The report of the chemical analyst, which are Annexure-3 series, would also go to show that the samples confirmed the limit laid down in Schedule-IV of the Drugs and Cosmetics Act. The Analyst did not find violation of any rules or law of the Drugs and Cosmetic. Thus, having regard to the facts and circumstances of the case, it is quite clear that there was no violation of any rules or provisions of Drugs and Cosmetics Act. The petitioner has un-necessarily been dragged in criminal prosecution which amounts of abuse of process of the court. Accordingly, this application is allowed and the impugned order of cognizance is hereby quashed. The petitioner may file appropriate application before the court below for release of the seized articles.