(1989) 03 PAT CK 0018

In the Patna High Court

Case No : Criminal Miscellaneous No. 5752 of 1981

S.K.G. Sugar Ltd. APPELLANT

Vs

The State of Bihar RESPONDENT

Date of Decision : 08-03-1989

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Essential Commodities Act, 1955 — Section 7
Penal Code, 1860 (IPC) — Section 420, 465, 468

Citation : (1989) 37 BLJR 64 : (1989) PLJR 532

Hon'ble Judges : S.N. Jha, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S.N. Jha, J.—This application u/s 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "the Code") has been filed for quashing an order dated 30th April, 1976, whereby and where under the learned Chief Judicial Magistrate, Gopalganj has taken cognizance against the petitioner for an offence u/s 7 of the Essential Commodities Act, 1955 (hereinafter referred to as "the Act") read with Sections 420, 465 and 468 of the Indian Penal Code (for short "the Penal Code") on a complaint filed by one Z.A. Ansari, Marketing Officer, Gopalganj.

2. It appears that on 1st January, 1974 one Shri R.S. Bisnoi, Inspector of Sugar of the Directorate of Sugar and Vanaspati, Government of India, visited the factory premises of the petitioner, M/s. S.K.G. Sugar Ltd., Hathua and drew nine samples of the sugar certified by the factory to be true representative samples from the stock stored in the factory go down of 1973-74 season production. Out of the aforesaid samples, one sample was forwarded by the Directorate to the National Sugar Institute, Kanpur, on 24th May, 1974 for determining its grade of Indian Sugar standard grade and the said Institute after examining the sample found the same to be inferior than grade "S" and sent its report to the

Directorate on 31st August, 1974.

3. It was alleged that the petitioner and their Managing Directors have contravened the provisions of Clause 5 of the Sugar Control Order, 1966 and have further failed to comply with the provisions of Clause 4(i) of the direction issued by the Government of India, Ministry of Food and Agriculture under GSR 643 dated 14-4-1970 regarding packing and marking of sugar bags and thus they have contravened the provision of Clause 14 of the said Control Order and committed an offence u/s 7 of the Act along with other Sections of the Penal Code as indicated above.

4. The learned Magistrate on the basis of the said petition of complaint took cognizance against the petitioner, which is under challenge in this application before this Court.

5. Mr. Giri, learned Counsel appearing on behalf of the petitioner has raised number of points in this case, but this case can be disposed of on the short question as to whether the criminal prosecution stands abated in view of provisions as laid down in Section 16 of the Bihar Sugar Undertaking (Acquisition) Act, 1985 (in short "the Sugar Undertaking Act"); Since the matter is being disposed of on the short question of abatement it is not necessary to give finding on the other points raised in this case, as pleaded'' by the learned counsel.

6. According to the learned Counsel the entire criminal proceeding stands abated in view of the provisions as laid down in Section 16 of the Sugar Undertaking Act.

7. Section 16 of the Sugar Undertaking Act provides that all orders, directions, writ and prohibitions issued by any Court against the undertaking shall be deemed to, be vacated and of no effect and any proceedings, appeal or revision pending before any Court, tribunal or authority against the undertaking on the appointed day, shall abate, The appointed day has been defined in the Sugar Undertaking Act itself, which means the date on which the Act comes into force. The Act came into force on 21st October, 1985.

8. In the instant case the petitioner or its officers i.e. the Director or; Manager were not prosecuted in their individual capacity rather because they were associated with the undertaking in different capacity i.e. being Managing Director or Director In charge or Occupier etc. As this proceeding has been initiated against an undertaking which has been nationalised after enforcement of the aforesaid Sugar Undertaking Act by which the Sugar Factory was nationalised, therefore, any proceeding pending against the petitioner undertaking or its officers in their different managerial capacity of that factory by virtue of the aforesaid Section stands abated. In my opinion this section is so wide that it covers all the proceedings either civil or criminal and in this view of the matter this proceeding has also abated against the petitioner after enforcement of the aforesaid Sugar Undertaking Act.

9. In the result, the application is allowed and the criminal proceeding against the petitioner is quashed.

