

(2017) 05 PAT CK 0033

In the Patna High Court

Case No : 36815 of 2013

Vijay Kumar Bharti Son Of Shri Krishna Dev Prasad Resident

APPELLANT

Vs

The State Of Bihar

RESPONDENT

Date of Decision : 10-05-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 482](#) - Saving of inherent powers of High Court

[Drugs and Cosmetics Act, 1940](#), [Section 28](#), [Section 18\(a\)](#)

Citation : (2017) 05 PAT CK 0033

Hon'ble Judges : Arvind Srivastava

Bench : SINGLE BENCH

Advocate : Anil Kumar Singh, Mayanand Jha

Judgement

1. Heard learned counsel for the parties.
2. Petitioner, by means of this application under section 482 of the Code of Criminal Procedure, have invoked the inherent jurisdiction of this Court with prayer to quash the order dated 30.12.2012, passed by Chief Judicial Magistrate, Nalanda at Biharsharif, in Laheri P.S. Case No. 138 of 2012, G.R. No. 1950 of 2012, whereby cognizance has been taken against the petitioners for the offences under sections 18(c), 27(b), (ii), 18(a), 28, 28(a) of the Drugs and Cosmetics Act, 1940.
3. The contention of the learned counsel for the petitioner is that after the prosecution was launched on the complaint of a Drug Inspector but investigation of the case was carried out by the police

which was against the provisions of Section 22(i) of the Act. Learned counsel has relied upon a Division Bench decision of this Court dated 21.01.2011 passed in Cr. W.J.C. No. 719 of 1998 and 808 of 1998 on the said point.

4. In view of express adjudication of this issue, the application is allowed and the order taking cognizance dated 30.12.2012 passed by the Chief Judicial Magistrate, Nalanda at Bihar Sharif in G.R. No. 1950 of 2012 arising out of Laheri P.S. Case No. 138 of 2012 is, hereby quashed.

5. The application accordingly stands allowed.