

Vikas Kumar @ Vikash Kumar Singh vs The State Of Bihar Through The Director ... on 20 April, 2023

Author: Anshuman

Bench: Anshuman

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.234 of 2020

Arising Out of PS. Case No.-573 Year-2019 Thana- PATLIPUTRA District- Patna

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Vikas Kumar @ Vikash Kumar Singh Son Of Bindhaychal Singh And
Husband Of Priti Kumari Vill - Babhandi, P.O.- Taleya-Babhandi, P.S.-
Chanpur, Daltonganj 822110, Palamu, Jharkhand And Presently Residing At
A-102, Jagdip Mansion, Road No. 4, Jagat Vihar Colony, Near Patliputra
Railway Station, P.O. And P.S.- Rajiv Nagar, Patna-800025.

... .. Petitioner/S

Versus

1. The State Of Bihar Through The Director General Of Police, Patna.
2. Station House Officer Of Patliputra Police Station, Patna.
3. Rajan Kumar Singh Son Of Sri Raja Narayan Singh Resident Of Mahesh
Nagar, Road No. 1, Near Rajdhani Apartment, Mandir Wala Makan,
Shivpuri, P.S.- Patliputra, Patna -800023.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Jitendra Kr. Singh, Sr. Adv.
	:	Mr. Rohitabh Das, Adv.
	:	Mr. Isshan Singh, Adv.
	:	Mr. Yash Singh, Adv.
For the Respondent/s	:	Mr. Prabhat Kumar Verma

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 20-04-2023

Heard learned Sr. counsel Mr. Jitendra Kr. Singh with
Mr. Rohitabh Das, Advocate for the petitioner and learned counsel
for the State.

The present Cr. Writ petition has been filed for
quashing the F.I.R. being special case no. 09/19 arising out of
Patliputra P.S. Case No. 573/2019, pending in the Court of
S.D.J.M., Patna, whereby and whereunder, the Opposite Party

No.2 on the information given by Opposite Party No.3 on

07.12.2019

, has lodged FIR on 07.12.2019 for alleged offences u/s 420/201 I.P.C. read with Section 16(1) of the Prevention of Food Adulteration Act, 1954.

Patna High Court CR. WJC No.234 of 2020 dt.20-04-2023 Counsel for the petitioner submits that the present F.I.R. has been lodged under Prevention of Food Adulteration Act, 1954. He submits that the said Act has already been repealed and revised by new Act namely Food Safety and Standards Act, 2006 and Food Safety and Standards Rules, 2011 (Here and after named as FSSA and FSSR). Counsel for the petitioner submits that in the light of new Act FSSA and FSSR, the lodging of F.I.R. is itself bad in law. He has placed reliance on the different judgments of Hon'ble Supreme Court reported in Raghbir Prasad Agarwal and Ors. Vs. State of Bihar and Ors. reported in 2013 SCC OnLine Pat 384: (2013) 4 BLJ 40 (PHC).

A counter affidavit has been directed to be filed by the Senior Superintendent of Police, Patna and it has been directed to examine the law in correct prospect.

The counter affidavit has filed and in the said counter affidavit which has been filed by the Senior Superintendent of Police, Patna, it has been categorically narrated as following:-

1. That it is humbly stated and submitted that the deponent has examined the provisions of the Food Safety and Standards Act, 2006 read with Food Safety and Standards Rules, 2011 in compliance of the order of this Hon'ble Court.
2. That it is humbly stated and submitted that after Patna High Court CR. WJC No.234 of 2020 dt.20-04-2023 examining the provisions as also after carrying out the review of the matter, the deponent has issued an order dated 01.04.2023 under Memo No. 1332 whereby and whereunder all the competent police officers under the jurisdiction of the deponent have been directed to ensure that in case any matter is brought to their notice with respect to violation of the provisions of the Food Safety and Standards Act, 2006, the Food Safety Officer shall be apprised for necessary action along with the sample etc. in view of the regulatory mechanism.
3. That it is humbly stated and submitted that on 01.04.2023 itself under Memo No. 1333 Report 4-cum-final order has been passed by the deponent in connection with Patliputra Police Station Case No. 573 of 2019 dated 07.12.2019 ordering that the case instituted was a 'mistake of law' and accordingly the investigating officer has been directed to make take necessary corrective measures by filing rectified final form in the case. The case has thus been directed to be closed as 'mistake of law'.

In the light of pleadings made by the petitioner and the reply of counter affidavit, it is crystal clear that lodgment of F.I.R. is bad in law and the decision has taken place at the highest level, that investigating officers has been directed to take Patna High Court CR. WJC No.234 of 2020

dt.20-04-2023 necessary actions and directed to submit final form in this case as mistake of law. The Senior Superintendent of Police has taken further steps by issuing show cause to the concerned S.H.O., Patliputra P.S. who has instituted the F.I.R.

In this view of the matter, the F.I.R. and entire proceeding relating to special case no. 09/19, arising out of Patliputra P.S. Case No. 573/2019 pending in the Court of S.D.J.M., Patna is hereby quashed and the present Cr. Writ petition is hereby allowed.

This Court expects that the Senior Superintendent of Police shall not leave the then S.H.O. only by issuing show cause, rather, upon receiving the reply, he shall take a decision in this matter to its logical end.

(Dr. Anshuman, J.) Ashishsingh/-

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