

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

PRESENT:

THE HON'BLE DR. JUSTICE AJOY KUMAR MUKHERJEE

CRR 873 of 2024

**Bimal Kumar Roy
Vs.
The State of West Bengal**

For the petitioners : Mr. Angshuman Chakraborty
Mr. Shashanka Shekhar Saha

For the State : Mr. Somnath Adhikary

Heard on : 30.06.2026

Judgment on : 21.07.2026

Dr. Ajoy Kumar Mukherjee, J.

1. Petitioner has prayed for quashing of the entire proceeding being SL No. 1851 of 2021, arising out of Tehatta P.S. case no. 588 of 2021, presently pending before learned ACJM, Tehatta.

2. Petitioners contention is that he is the sole proprietor of a proprietorship concern dealing with trade of raw jute and various agricultural products. By dint of government notification being SO no. 2523 (E) FN Jute (MKTJ/160/1180/IV dated 18.06.2021, police had seized raw jute quantifying 400 quintals (approximately) from the godown of the

petitioner on 08.11.2021 on the ground that the petitioner did not take the permission from jute and jute textile control for storing such a huge quantity of jute nor he submitted any prayer for registration before the Jute Commissioner as per clause 6 (i) of the Jute and Jute Textile Control Order 2016, which provides that every jute dealer trading with five hundred kilograms or more quantity of raw jute in a year, has to apply to the office of the Jute Commissioner for registration.

3. Petitioners case is that he could not apply for such registration within the period of time, stipulated in the said notification i.e. within 31st October, 2021 but thereafter he applied for the same.

4. Petitioner in this context submitted that it is true that by aforesaid notification being SO no. 2523E FN Jute MKTG 160 /80/4 dated 18.06.2021 commissioner directed all categories of traders/stockists of raw jute to apply for registration before the officer of the Jute Commissions, Ministry of Textile, Government of India by 31.10.2021 but petitioner somehow missed the notification and could not apply for such registration within the time but later on he applied for such registration on 22.11.2021.

5. Thereafter on 10.11.2021 the officer of Jute Commissioner, Government of India, by way of an order being Jute (MKTG)/106/2018 *interalia* specified the upper limit of the quantity of raw jute that the various categories of traders stockist could hold on.

6. Petitioners specific contention is that he was arrested on 08.11.2021 and was in custody till 17.11.2021 and in that interregnum, a notification dated 10.11.2021 came into being by which the Jute Commissioner gave an opportunity to those who have not applied for registration in pursuance of

the officer order dated 18.06.2021 within 31.10.2021 to hold maximum five quintals of raw jute were allowed selling of excess amount within 10 days and/or to deliver consignee within 25.11.2021 . In the said notification dated 10.11.2021, it has been mentioned that the order shall come into force with immediate effect except the part mentioned under serial no. 3 and shall remain valid till 30.06.2022 or until further order whichever is earlier. The petitioner comes under column serial No.3 in the table which is already in force w.e.f. 01.11.2021 and thus, before he could avail of such benefit, he was arrested. Moreover, vide last notification dated, 25th July 2025, the earlier notification by which keeping excess raw jute was made an offence, has been withdrawn.

7. Therefore, learned counsel for the petitioner argued that at one time keeping excess raw jute was made an offence but by subsequent order it has been made that keeping excess raw jute does not amount to an offence. It cannot be the stand of an authority because stand of the authority needs to be uniform to bring any act under the purview of an offence, which is lacking in the instant case. In view of the amendment of the E.C. Act, 2020, there is no upper limit of stock of agricultural product and raw jute comes within “ agricultural product”. In fact before June, 2021 there was no upper limit for stock of raw jute and as on date again there is no upper limit for stock of raw jute.

8. It is further submitted that on the basis of *suo moto* written complaint lodged by Sub-Inspector of Police, the instant case was started and after completion of investigation police has submitted charge sheet under section 379/411 of Indian Penal code read with section 7(1) (a) (ii) of the Essential

Commodities Act. Accused petitioner has also placed one order dated 01.03.2024 by which the court below has framed charge against the petitioner only under section 379/411 of the IPC.

9. Learned counsel appearing on behalf of the state submits that during investigation prima facie case under section 7(1) (a) (ii) of the Essential commodities Act has been clearly made out. However, learned court below by the order dated 1st March, 2024 has framed charge against the petitioners only under section 379/411 IPC and has not framed charge under section 7(1) (a) (ii) of the Essential Commodities Act.

10. Section 7 (1) of the Essential Commodities Act, 1955 reads as follows:-

“If any person contravenes any order made under section 3,

(a) he shall be punishable,—

(i) in the case of an order made with reference to clause (h) or clause (i) of sub-section (2) of that section, with imprisonment for a term which may extend to one year and shall also be liable to fine, and

(ii) in the case of any other order, with imprisonment for a term which shall not be less than three months but which may extend to seven years and shall also be liable to fine:

Provided that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three months;

(b) any property in respect of which the order has been contravened shall be forfeited to the Government;

(c) any package, covering or receptacle in which the property is found and any animal, vehicle, vessel or other conveyance used in carrying the commodity shall, if the court so orders, be forfeited to the Government.”

11. Section 3 of the Act of 1955 give powers to the Central government to control production, Supply, Distribution etc. of Essential Commodities. In the instant Case admittedly fact remains that the petitioner herein did not apply for registration in terms of notification being SO no. 2523 (E) FN Jute MKTG/160/80/IV dated 18.06.2021 within the period of time i.e. by

31.10.2021. The raid was conducted on 08.11.2021. The court below while passed the order dated 01.03.2024 has not mentioned anywhere as to why the charge was not framed against the petitioner under section 7(1) (a) (ii) of the Essential Commodities Act.

12. The order dated 01.03.2024 may be reproduced below:-

Order dated 01.03.2024

Today is fixed for framing of charge

The accused person/persons is/are present in this court room and hazira on behalf of accused is filed.

The Ld APP is also present and the substance of the accusation u/s.379/411 of IPC, Section is read over and explained to the accused person to which the accused person pleaded not guilty and claimed to be tried.

The allegation against the accused persons is recorded in separate charge form.

The record is fixed for evidence.

Fix 06.09.24 for evidence.

13. Section 239 of Cr.P.C. required a Magistrate to record his reasons for discharging the accused but there may be no such requirement if he forms the opinion that there is ground for presuming that the accused has committed the offence, which is competent to try. In the instant case as I have stated above, police submitted charge sheet after investigation under section 379/411 IPC along with section 7(1) (a) (ii) of the Essential Commodities Act. However, the cryptic order dated 01.03.2024 discloses that he has framed charge against the petitioner under section 379/411 of IPC and practically has discharged the accused person/petitioner from the offence punishable under section 7(1) (a) (ii) of the Essential Commodities Act.

14. The law is no more *res integra* that where materials collected by the police are not even remotely sufficient to raise strong suspicion against the accused/petitioner, such materials render the charge “groundless” and the accused can be discharged. The word “groundless” used in section 239

postulates that no reasonable person can come to the conclusion that there was any ground whatsoever to sustain the charge against the petitioner/accused. The cryptic order dated 01.03.2024 does not disclose any such discussion about Magistrate's satisfaction for petitioner's discharge from that offence.

15. Therefore, the said order has been passed mechanically without having any application of judicial mind. In fact aforesaid cryptic order dated 01.03.2024 is bereft of any reason for discharging the accused from that offence and thereby suffers from perversity and impropriety, which calls for interference by this court.

16. In view of above **CRR 873 of 2024** is hereby disposed of with a direction upon the court below to make charge hearing afresh on the next date of hearing or within a period of 30 days thereafter, giving opportunities to all the parties to contest. The petitioners shall also be at liberty to agitate all the points argued herein at the time of charge hearing and the court below on hearing will pass a reasoned order in case of discharge, without being influenced by any observation made herein by this Court. Connected application also thus, stands disposed of. The order dated 01.03.2024 is hereby set aside.

17. Urgent Xerox certified photocopies of this Judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(DR. AJOY KUMAR MUKHERJEE, J.)