

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.20120 of 2015

Arising Out of PS.Case No. -115 Year- 2009 Thana -RANIYATALAB District- PATNA

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Ravindra Paswan son of Satyanarayan Paswan, Resident of Village - Lahaladpur Chowki, P.S. - Ranitalab, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sri Bhushan Kumar Singh, Block Supply Officer in-charge, Bikram, District - Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dineshwar Mishra, Advocate
For the Opposite Party/s : Mr. J. Upadhyay, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 22-06-2015

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The present application under section 482 of the Code of Criminal Procedure (hereinafter referred to as “the Code”) has been filed for quashing of the order dated 13.1.2015 passed by the learned Sub Divisional Judicial Magistrate, Danapur in Ranitalab P.S. Case No.115 of 2009 whereby the application filed under section 258 of the Code for dropping of the proceeding against the petitioner has been rejected.

3. The petitioner is a named accused in the aforesaid case instituted under section 7 of the Essential Commodities Act. On



completion of investigation, the police submitted chargesheet against him pursuant to which the Magistrate concerned took cognizance of the offence. As it is a summons case, the substance of accusation was explained to the petitioner and the trial proceeded. In course of trial, the petitioner filed an application under section 239 of the Code for discharge. The court below rejected the application of the petitioner. Subsequent thereto, after examination of five witnesses on behalf of the prosecution, the petitioner filed an application under section 258 of the Code and prayed for stoppage of proceeding and dropping of the charge which has been rejected by the learned Sub Divisional Judicial Magistrate, Danapur vide impugned order dated 13.1.2015.

4. Learned counsel for the petitioner has submitted that the entire prosecution case is bad in the eye of law as no offence is made out against him.

5. In my view, the application is thoroughly misconceived. Section 258 of the Code empowers the Magistrate to stop the proceedings without pronouncing judgment or pronouncing a judgment of acquittal or releasing the accused depending upon the stage at which the case has reached. The power vested in the Magistrate is discretionary in nature and has to be sparingly exercised only in appropriate cases where proceedings of the case would amount to abuse of process of law and result in undue harassment of

the accused. The instant case does not seem to be a case of that exceptional nature. Accordingly, the petitioner is filing applications one after another just in order to delay the trial.

6. The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

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