

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20762 of 2013

Arising Out of P. S. Case No. -179 Year- 2011 Thana -FALKA District-
KATIHAR

- =====
1. Sanjay Kumar S/O Lt. Praduman Prasad Singh Resident Of Village /
P.O. - Manika P.S. - Mushhari, Dist . - Muzaffarpur
 2. Md. Ziaul Haque S/O Lt. Anwarul Haque Resident Of Village - Bharsia,
P S - Falka, Dist - Katihar

.... Petitioners

Versus

The State Of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Durgesh Kumar Singh, Adv.

For the Opposite Party/s : Mr. Md. Sufiyan, APP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 21-07-2015 Heard learned counsel for the petitioners as well as
learned Additional Public Prosecutor.

Petitioners have challenged order dated 21.03.2012
passed by the learned Chief Judicial Magistrate, Katihar in Falka
P. S. Case No. 179 of 2011 whereby and whereunder the learned
lower Court has directed the petitioner to face trial for an offence
punishable under Section 7 of Essential Commodities Act.

Chandra Shekhar Prasad Yadav, A S I recorded his
own statement alleging inter alia that after getting confidential
information regarding storage of fertilizers in the house of Ziaul
Haque, he conducted raid and during course of search, he had
found 80 bags of IFFCO Urea, each one weighing 50 Kg. It has



also been disclosed that on an interrogation, Ziaul Haque had disclosed that aforesaid urea was kept by Block Agriculture Officer Sanjay Kumar. It has further been disclosed that he was confidentially informed that Sanjay Kumar and Ziaul Haque intercepted one tractor while carrying 80 bags of IFFCO Urea by Gholtu Bhagat @ Rajesh Bhagat and then unloaded it at the house of Ziaul Haque with ulterior motive.

During course of argument, it has been submitted on behalf of the petitioners that in terms of notification issued under fertilizer control order bearing 5/F-33/85-507U.Ko dated 9.4.2010 Block Agriculture Officer lies at lowest cadre of hierarchy to them vested with power to inspect in accordance with Sections 27 as well as 28 thereof. Therefore, the act of petitioners happens to be in accordance with law.

It has also been submitted that after seizure, he has entrusted Ziaul Haque and for that, took Jimmanama and has already informed police station on 13.9.2011 itself. Simultaneously, a copy to District Magistrate as well as District Agriculture Officer. However, the reasons best known to the informant, he had registered instant proceeding against the petitioners and others. In likewise manner, the order of cognizance happens to be mechanical one and the same is fit to be set

aside.

Learned Additional Public Prosecutor duly endorsed the notification and fairly conceded that in terms thereof guided by Sections 27, 28 of the Fertilizer Control Order, it is apparent that petitioner Sanjay Kumar's action was in accordance with law and that being so, instant prosecution coupled with the order impugned did not justify its relevance.

That being so, the order dated 21.3.2012 passed by Chief Judicial Magistrate, Katihar in Falka P. S. Case No. 179 of 2011 is hereby quashed to the extent of petitioners only. Accordingly, the petition is allowed.

(Aditya Kumar Trivedi, J)

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