

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.19974 of 2013

Arising Out of PS.Case No. -380 Year- 1996 Thana –AURANGABAD(T) District-
AURANGABAD

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1. Deepak Kumar S/O Late Birja Sao Resident Of Lalita Babu Road, New
Kaji Mohalla, Ward No. 11, P.S. Station Town, District Aurangabad.

.... Petitioner/s

Versus

1. The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. D.N. Tiwari, Adv.

For the Opposite Party/s : Mr. /Smt. Sharda Kumari (App)

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR
TRIVEDI
ORAL ORDER

7 24-07-2015 Heard learned counsel for the petitioner as well as
learned A.P.P..

Petitioner has challenged the order dated 23.03.2013
passed by the S.D.J.M., Aurangabad in connection with
Aurangabad Town P.S. Case No. 380 of 1996, G.R. No. 09 of
1996 whereby and whereunder, the learned lower court refused to
discharge the petitioner.

Shorn of un-necessary details, it is apparent from the
written report submitted by Supply Inspector, Aurangabad on
19.10.1996 divulging the fact that at the time of conducting raid at
the grocery shop belonging to the petitioner/accused 52 bags of
Maida each one containing 90 K.G, 20 bags of Aatta each one



containing 90 K.G. and 5 bags of Sujji each one containing 90 K.G. have been seized. Because of the fact that the aforesaid storage was without license, violative of Section 3 of the Bihar Trade Articles (Licenses Unification) Order, 1984, on account thereof, is punishable under Section 7 of the Essential Commodities Act followed with an investigation as well as submission of charge-sheet. After taking of cognizance of the offences, the matter has been posted for charge at which stage; an objection has been raised, being refused by the learned lower court, ultimately under challenge.

From perusal of the written report itself, it is apparent that the seized article happens to be wheat product and its appearance under Schedule-I of Bihar Trade Articles (Licences Unification) Order, 1984 happens to be through GSR 11 dated 11th of September, 1997. The wheat product was not within the ambit of aforesaid order since before 1997.

Furthermore, it is apparent from the Storage Limit Notification issued under GSR 49 dated 17th of October, 1985 that storage for the purpose of other than personal consumption, in a quantity exceeding 100 Quintal but not exceeding 2,500 (two thousand and five hundred) quintals, provided that the storage limits defined in specific articles in the order, should not be

crossed and on that score also, on account of absence of allegation at the end of the prosecution that the so alleged seized articles along with others had crossed the aforesaid limit again did not justify the prosecution.

Because of the fact that there happens to be legal deficiency in allowing the instant prosecution furthermore, on account thereof, the order impugned is set aside. Petition is allowed.

(Aditya Kumar Trivedi, J)

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