

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.28090 of 2012

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1. Dadan Singh son of Ram Saran Singh
 2. Anil Kr. Srivastava son of Shivji Sahay

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari

For the Opposite Party/s : Mr. Amitesh Kumar (App)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH

ORAL ORDER

4 20-02-2015 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

Petitioners seek quashing of the order dated 01.03.2011 passed in Industrial Area P.S. Case 57 of 2010 by which the Sub-Divisional Judicial Magistrate, Buxar has taken cognizance of the offences under Section 7 of the Essential Commodities Act, and has issued summons to these petitioners.

Learned counsel appearing on behalf of the petitioners submit, referring to the prosecution story, that from the stock of petitioner No. 1, 50 bags of urea, one bag of DAP and one bag of MOP was recovered on 13.09.2010 and from the stock of petitioner No. 2, 40 bags of urea was recovered. Each bag contains 50 kg of fertilizers.

Learned counsel for the petitioners has drawn my attention to

a notification as contained in Annexure-2 to this application to submit that no licence is required for storage of fertilizer upto 10 Metric Ton. He accordingly submits that no offence is made out under Section 7 of the Essential Commodities Act. Even after the allegation as contained in the prosecution report in the First Information Report is treated to be correct.

Learned counsel for the petitioner has relied upon an order of this Court dated 27.11.2013 passed in Cr. Misc. No. 30851 of 2011 wherein this Court quashed the order of cognizance on similar ground.

In view of the submission as above, keeping in mind the fact that the fertilizer recovered from the petitioners is less than the prescribed limit, in my opinion, no case under Section 7 of the Essential Commodities Act is made out. The order dated 01.03.2011 passed in Industrial Area P.S. Case No. 57 of 2010 by learned Sub-Divisional Judicial Magistrate, Buxar, is quashed.

This application is allowed.

(Chakradhari Sharan Singh, J.)

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