

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30284 of 2012

Arising Out of PS.Case No. -14 Year- 2008 Thana -null District- JAMUI

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1. Akhil Kumar Pandey S/O Sri Bindeshwari Pandey Owner Of Shreya Indane Service, Lauria, Resident Of Village- Baswaria, Police Station- Lauria, District- West Champaran.
 2. Dhananjay Kumar Srivastav S/O Bihari Lal Srivastav, Manager, Shreya Indane Service, Lauria, Resident Of Village- Lauria Mishra Tola, Police Station- Lauria, District- West Champaran.

.... Petitioner/s

Versus

1. The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shiv Kumar Dwivedy, Advocate.

For the Opposite Party/s : Mrs. Veena Rani Prasad, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL JUDGMENT

Date: 20-02-2015

Heard learned counsel for the petitioners and the learned A.P.P. for the State.

The petitioners by the instant application have invoked the inherent jurisdiction of this Court under section 482 of the Cr.P.C. for quashing the order dated 08.06.2012 passed by the Evening Court of West Champaran, Bettiah in E.C. Case No. 23 of 2012, whereby and whereunder, a petition under section 239 of the Cr.P.C. for discharge of the petitioners from the accusation under section 7 E.C. Act was rejected. The learned Magistrate under the impugned order has stated that there is sufficient material to proceed further with the trial against the petitioners and accordingly the discharge petition has been rejected with a direction to be remained present physically on the next date.

Submission is that earlier the petitioner had come before this Court

to quash the order dated 14.07.2010 passed by the learned C.J.M. Bettiah in Lauria P.S. Case No. 14 of 2008 giving rise to E.C. Case No. 23 of 2012 and the same was dismissed by order dated 16.01.2012 with liberty to the petitioners to raise all the pleas, even plea of malafide at the appropriate stage before the court below and if such petition is filed the Court expects that the learned court below will examine the same and pass appropriate order in accordance with law.

It is submitted that no offence under section 7 of the E.C. Act has been made out against the petitioners and continuation of the proceeding will be an abuse of the process of law. It is also submitted that in the F.I.R. petitioners are not named. Before institution of the aforesaid case proper enquiry was made and after enquiry F.I.R. was lodged only against the named accused and no illegality on the part of the petitioners was found. There is no direct or indirect evidence against the petitioners with respect to black marketing of L.P.G. Gas. There is no contravention of any order under section 7 of the E.C. Act. All the sixty Gas Cylinders has been claimed by the Consumers and the same has been released by the learned C.J.M. by orders dated 27.03.2008 and 29.05.2008 vide Annexures- 6 series respectively and as such due to bias attitude of Police officers the petitioners have been implicated.

The learned A.P.P. on the other hand submits that the learned Magistrate has rightly passed the order as on the record there was sufficient material to proceed with the trial against the petitioners.

Having considered the submissions urged at the bar, going through the records and the impugned order and noticing that the learned Magistrate has written that on the record there is sufficient material to proceed with the trial against the petitioners also and then has rejected the petition. At the time of framing of charge the defence of the accused persons cannot be meticulously

examined rather during trial all these things can well be examined. Earlier vide Cr. Misc. No. 1764 of 2012 cognizance order has not been interfered by this Court and as such it is manifest that against the petitioners there is sufficient material to proceed further and it is not required to give detail of those materials at this stage. Even on strong suspicion charge can be framed and as such finding no merit in this Criminal miscellaneous application the same stands dismissed.

The petitioners may be at liberty to raise those points at the time of final hearing.

(Jitendra Mohan Sharma, J)

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