

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.38959 of 2012

Arising Out of PS.Case No. -15 Year- 2010 Thana -null District- MADHEPURA

Munna Sah S/O Bisheshwar Prasad Sah R/O Jai Nagar, P.S.- Jai Nagar, District-
Madhubani.

.... Petitioner/s

Versus

1. The State Of Bihar through the District Magistrate, Madhubani.
2. The District Magistrate, Madhubani.
3. The Marketing Officer, Jai Nagar, Madhubani.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vagisha Pragya Vacaknavi, Adv.

For the Opposite Party/s : Mr.

CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 20-03-2015

Heard the learned counsel for the petitioner.

Taking exceptions to the order dated 09.08.2011, taking cognizance against the petitioner under Section 7 of the Essential Commodities Act, the petitioner has filed the petition for quashing of the said order.

From the perusal of the First Information Report, it is manifest that the petitioner is said to have violated the provisions of the Essential Commodities Act, 1955 and Essential Articles (Display of Prices and Stocks) (Bihar) Order, 1977.

The learned counsel for the petitioner has submitted by

placing strong reliance upon a decision of this Court in the case of Ghanshyam Kumar @ Rajeev Kumar Vs. The State of Bihar passed in Cr. Misc. No. 9089 of 1999 and also another decision in the case of Rakesh Kumar Gupta Vs. The State of Bihar reported in 2014 (3) P.L.J.R. 709 that in absence of prescribed license fee as required, the pulses are outside the purview of the Unification Order 1984. The learned counsel has further placed the letter dated 27.01.2010(annexure-3) issued by the District Magistrate, Patna addressed to the Principle Secretary Food and Consumer Protection Department, to point out that the said license fee for pulses was not fixed till then. It has, thus, been canvassed that no offence as alleged is made out against the petitioner.

After considering the facts and circumstances of the case, this Court finds substance in the contention on behalf of the petitioner. Aligning with the decision in the case of Rakesh Kumar Gupta (supra), this Court allows this petition and quash the order dated 09.08.2011 passed by the learned S.D.J.M, Madhubani in Trial No. 4561 of 2011.

(V. Nath, J)

Devendra/-

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