

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.47834 of 2013

Arising Out of PS.Case No. -null Year- null Thana -null District- DARBHANGA

Shiv Mohan Prasad, S/o Sri Ram Chandra Sah, Resident of Village-Brahmpur,
Panchayat Brahmpur East, P.S.- Kamtaul, P.O.- Brahmpur (Sotia), District-
Darbhanga

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

Appearance :

For the Petitioner/s : Md. Imteyaz Alam, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 21-10-2016

Heard learned counsel for the petitioner and learned
counsel for the State.

By filing the present application under Section 482
of the Code of Criminal Procedure, the petitioner has prayed for
quashing the order dated 17th September, 2013 passed by the
learned Chief Judicial Magistrate, Darbhanga in Kamtaul P.S. Case
No. 79 of 2013 by which he has taken cognizance of the offence
punishable under Section 7 of the Essential Commodities Act (for
short 'the Act').

According to the allegation, during inspection of the

shop of the petitioner, who is a PDS dealer, there was found discrepancy in the stock register and the stock found in the shop. The wheat of *Antyodaya* and BPL scheme was 78.50 quintal excess, whereas rice was 30.64 quintal less, which was accepted by the dealer also.

On the basis of the aforesaid irregularity, the FIR was registered and after completing the investigation, the police found the offence to be true under Section 7 of the Act. Accordingly, final report, vide charge-sheet No. 123 of 2013, dated 31.08.2013, was filed in the court of Chief Judicial Magistrate and on perusal of the charge-sheet and the materials available in the case diary, the Chief Judicial Magistrate found a prima facie case to be made out under Section 7 of the Act.

While advancing his argument, learned counsel for the petitioner has tried to establish his defence.

In my opinion, the defence of the petitioner is to be considered by the court below. At the stage of taking cognizance of the offence, the court is simply required to look into the materials available on the record and pass an appropriate order. I see no illegality in the order impugned.

Accordingly, the application, being devoid of any merit, is dismissed.

The interim order dated 18.12.2013 stand vacated.

Let the order be communicated to the court of Chief

Judicial Magistrate, Darbhanga forthwith.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	-----
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