

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17862 of 2014

Arising Out of PS.Case No. -212 Year- 2012 Thana -BARACHATTI District- GAYA

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1. Rajendra Prasad @ Rajendra Sao Son of Late Jagdish Sao Resident of Village-
Balthar, Police Station- Barachatti, District- Gaya.

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Block Supply Officer, Barachatti, District- Gaya.
3. The Officer In Charge, Police Station Barachatti, District- Gaya.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Binay Kumar, Adv.

For the State : Mr. Nil Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 16-10-2017

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

2. This application has been filed for quashing the order dated 24-12-2012 passed by learned Sub Divisional Judicial Magistrate, Sherghatti, Gaya in Barachatti P.S. Case No. 212 of 2012 by which, the learned Magistrate after holding inquiry u/S 202 Cr.P.C. has found prima facie against the petitioner for the offence under Sections-379, 406, 420, 120(B) of the IPC and Section-7 of Essential Commodities Act.

3. The allegation against petitioner is that total 59.25 quintals wheat and 158.50 quintals of rice kept in gunny bags of FCI mark were seized in the house. The complainant suspected that the same was stored for black marketing. Thereafter, seizure lists were prepared and the petitioner was made accused in the case.

4. Counsel for the petitioner has submitted that seized rice and wheat



were purchased by him in the open market by valid documents. All the seized bags of rice and wheat were legally owned and possessed by the petitioner with valid documents. In support of such statement, annexure-2 series have been annexed. It has further been submitted that rice and wheat are sold in open market and no license is required for the same since 11-10-2002. Mere suspicion has been raised against this petitioner that those food grains were stored for black-marketing because some of the bags were found to have FCI mark. The gunny bags of FCI mark are easily available in the open market. As per Bihar Trade Articles (licenses Unification) Order, 1984 vide notification dated 11-10-2002, there is no movement control and no storage limit and, there is no requirements of license for carrying on business of wheat and rice.

5. Considering the submission of the petitioner, this court is of the view that the impugned order is not in accordance with law. Accordingly, the impugned order dated 24-12-2012 passed by learned Sub Divisional Judicial Magistrate, Sherghatti, Gaya in Barachatti P.S. Case No. 212 of 2012 along with entire criminal proceeding against the petitioner is quashed.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	AFR
CAV DATE	N/A
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