

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.47965 of 2013

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

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1. Anwar Yusuf Son of Late Mohammed Yusuf Resident Of Mohalla-
Saudagarpatti Road, Police Station - Kishanganj, District- Kishanganj.

.... Petitioner/s

Versus

1. The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Advocate
Mr. S.S. Khan, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 09-01-2017

Supplementary affidavit along with photocopy of the
case-diary and certified copy of the charge sheet have been filed by
the petitioner and the same is kept on record.

Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

The sole petitioner is accused in connection with
Kishanganj P.S. Case No.24 of 2013 registered under Section 7 of the
Essential Commodities Act, 1955.

After investigation police has submitted charge sheet
in the case and accordingly by the impugned order cognizance has
been taken against the petitioner.

Prayer is to quash the impugned order and the entire
criminal proceeding against the petitioner as there is no material



against the petitioner as such the criminal proceeding against the petitioner is an abuse of the process of the Court.

According to First Information Report the informant, who is local Block Development Officer of Kishanganj, along with his police team raided the Betel shop of Babloo Kumar Das and found eleven passbooks relating to supply of gas as well as one original paper of gas connection of a consumer and two filled domestic gas cylinders. Babloo Kumar Das informed that he was purchasing the same from Taj Enterprises and Jagdamba Enterprises and was selling on higher price to the consumers. The petitioner claims to be the proprietor of Taj Enterprises. At the same time the police intercepted Majhar Alam, who was carrying two gas cylinders on a cycle and Majhar Alam informed that he had taken the same from Taj Gas Agency of this petitioner and he produced some papers of consumers who were getting supply of gas through Taj Gas Agency.

Contention of the petitioner is that during whole of the investigation no other evidence was collected against the petitioner nor the premises of the petitioner was ever inspected to notice any irregularity in maintaining the records. If some of the consumers had provided their cards to Babloo Kumar Das to get supply of the gas from any referred agency, it was the misconduct or violation of some law by the consumers concerned, who had supplied



their cards to Babloo Kumar Das and not on the part of the agency of the petitioner. Moreover, several employees are working in the establishment of Taj Agency and this is not a case of vicarious liability because there is no sufficient averment in the complaint that the petitioner was in charge and responsible for conduct of the business of the Gas Agency.

After perusal of the case-diary, learned counsel for the State-Opposite Party does not dispute that no substantial material was collected during investigation to create even a doubt against the petitioner.

After consideration of the materials available on record in my view there is no substantial material against the petitioner on the record. Hence, the continuance of the criminal proceeding against the petitioner is apparently an abuse of the process of the Court and this cannot be allowed.

Accordingly, the impugned order is set aside and this application stands allowed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
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