

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.54212 of 2013

Arising Out of PS.Case No. -295 Year- 2013 Thana -BUXAR District- BUXAR

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Yadunandan Singh, s/o late Nand Bihari Singh, permanent resident of village
Bhatauli, P.S- Navanagar, District- Buxar, State of Bihar

.... Petitioner/s

Versus

1. The State of Bihar
2. Vijay Kumar Singh, s/o late Sheopujan Singh, resident of village- Anait, P.S-
Nawadah, District- Bhojpur (Ara), Presently Anchal Adhikari, At & P.O-
Buxar, District- Buxar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manish Jha, Advocate.

For the Opposite Party/s : Mr. Surendra Prasad Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 18-05-2017

1. This application has been filed for quashing the order dated 26.8.2013 passed by the learned Chief Judicial Magistrate, Buxar, in connection with Buxar (T) P.S. Case No. 295 of 2013, G.R. No. 1580 of 2013 by which the learned Magistrate took cognizance against the petitioner and other accused persons for the offence under Section 7 of the Essential Commodities Act.

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

3. It has been submitted on behalf of the petitioner that he was not Manager of the Hotel. He was only one of the customers in the Hotel. He has been falsely implicated in this case. It has further been submitted that during investigation, a letter was sent by the owner of the Hotel to the Superintendent of Police mentioning therein that this petitioner



is his relative and has been falsely implicated in this case.

4. From the impugned order, it appears that learned Magistrate after submission of charge sheet by the police on completion of investigation, has found sufficient material to take cognizance against the petitioners and other two accused persons for the offence under Section 7 of the Essential Commodities Act.

5. It is well settled that at the time of cognizance, the court below is only required to see the *prima facie* case on the materials available in the case diary as well as allegation made in the written report.

6. The arguments made on behalf of the petitioner that petitioner was not Manager of the Hotel and he was only customer and relative of members of the Hotel are matters of disputed question of fact which cannot be looked into in a proceeding under Section 482 Cr. P.C.

7. Therefore, this Court does not find any illegality in the impugned order dated 26.8.2013 passed by the learned Chief Judicial Magistrate, Buxar in Buxar (T) P.S. Case No. 295 of 2013, G.R. No. 1580 of 2013, by which the learned Magistrate took cognizance against the petitioner and other two accused persons for the offence under Section 7 of the Essential Commodities Act.

8. This Criminal Miscellaneous application is accordingly disposed off with a direction to the petitioner to raise all these points as raised in this Criminal Miscellaneous application, at the time of framing of charge, which shall be considered and disposed off by the court below in accordance with law without being prejudiced by this order at



appropriate stage.

9. This Criminal Miscellaneous application is accordingly disposed off.

S.Ali/-

(Sanjay Priya, J)

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	26.05.2017
Transmission Date	26.05.2017

