

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45961 of 2014

Arising Out of PS.Case No. -165 Year- 2013 Thana -JAYNAGAR District- MADHUBANI

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Niraj Kumar Gupta Son of Parmeshar Gupta Resident of Bela P.S. Jainagar, District
- Madhubani

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Anand Kumar Ojha, Advocate

For the Opposite Party/s : Mr. Ravindra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 21-09-2017

Heard learned counsel for the parties.

2. Short facts of the case are that upon a complaint made by the In-Charge, Block Supply Officer-cum-Block Development Officer, Jaynagar dated 23.08.2013, an FIR has been lodged against the petitioner bearing Jainagar P.S. Case No. 165 of 2013. The allegation levelled by the aforesaid officer in his complaint is that on 22.08.2013 at about 12:20 hours in the afternoon it was found that sacks containing wheat were being unloaded from a truck and taken to the store of the petitioner and some of the sacks were bearing the inscription of Bihar State Food and Civil Supplies Corporation (hereinafter referred to as the B.S.F.C.) and the F.C.I., however, the petitioner could not produce valid papers for the same, hence it was obvious that the petitioner was engaging in black marketing, thus the



complaint was made.

3. The learned Sub-Divisional Judicial Magistrate, Madhubani by an order dated 20.06.2014 has been pleased to take cognizance against the petitioner for the offence under Section 7 of the Essential Commodities Act. The aforesaid order dated 20.06.2014 is under challenge in the present petition.

4. The learned counsel for the petitioner makes a short submission to the effect that a bare perusal of the order taking cognizance dated 20.06.2014 would show that the same has been passed in a mechanical manner and without any application of mind. It is further pointed out that even on merits, the petitioner has a case inasmuch as he had valid documents for the said wheat sacks, hence the same were not that of either B.S.F.C. or F.C.I.

5. Without going into the merits of the case and considering the short point raised by the learned counsel for the petitioner, I deem it fit and proper to quash the order dated 20.06.2014 passed by the learned S.D.J.M., Madhubani on the ground that not only the said order is perfunctory but the same also does not depict any application of mind whatsoever while passing the order taking cognizance. It is a trite law that if any person is called upon to appear before the criminal court as an accused, the same is a serious matter affecting one's dignity, self respect and image in the society, hence



the greater need of being cautious while passing the order taking cognizance.

6. In this connection, reference be had to a judgment of the Hon’ble Apex Court reported in **(2015) 12 SCC 420 (Mehmood Ul Rehman vs. Khazir Mohammad Tunda)**.

7. For the reasons mentioned hereinabove, the order dated 20.06.2014 passed by the learned Sub-Divisional Judicial Magistrate, Madhubani in connection with Jainagar P.S. Case No. 165 of 2013, is hereby quashed. However, the present order would not preclude the learned S.D.J.M. from applying his mind afresh.

9. The petition is allowed.

(Mohit Kumar Shah, J)

S.Sb/-

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