

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.53369 of 2013

Arising Out of PS.Case No. -16 Year- 2010 Thana -PRATAPGANJ District- SUPAUL

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Sanjay Sah, son of Late Bilas Sah, resident of village-Simrah, P.S. Raghapur,
Districtt-Supaul

.... Petitioner.

Versus

The State of Bihar

.... Opposite Party.

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Appearance :

For the Petitioner : Mr. Vijay Anand, Advocate.

For the State : Ms. Renu Kumari, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 11-09-2017

This application, under Section 482 of the Code of Criminal Procedure, is directed against the order dated 12.07.2010 passed in Pratapganj P.S. Case No.16 of 2010, whereunder the court of the Sub Divisional Judicial Magistrate, Birpur, Supaul, took the cognizance of the offence under Section 7 of the Essential Commodities Act against the petitioner and one Ganesh Raut, the F.I.R. named accused, while on investigation, final form was submitted against the petitioner.

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

3. The facts leading to this application are that on the basis of the written report dated 19.03.2010 of the informant Baidyanath



Pathak, the Block Supply Officer, Pratapganj, Supaul, Pratapganj P.S. Case No.16 of 2010 was instituted on 19.03.2010 against Ganesh Raut and this petitioner under Section 7 of the Essential Commodities Act. It is alleged in the written report by the informant Baidyanath Pathak, the Block Supply Officer, Pratapganj, Supaul, that on receiving secret information about keeping the rice of the Food Corporation of India in the residential premises of Ganesh Raut for the purpose of black marketing, the residential house of Ganesh Raut was searched where Ganesh Raut was found transferring the rice into empty bags after opening the seal of the gunny bag of rice of the Food Corporation of India. In course of search, 258 bags rice of the Food Corporation of India, each containing 50 kilograms, were seized. Ganesh Raut disclosed that the rice of the Food Corporation of India were purchased by him on 15.03.2010 from the Fair Price Shop Dealer Sanjay Sah (petitioner) of village-Simhari, P.S. Raghopur, who used to purchase and sell the rice.

4. On the basis of the written report of the informant Baidyanath Pathak, the Block Supply Officer, Pratapganj, Supaul, the police, on investigation, while submitted the chargesheet for the offence under Section 7 of the Essential Commodities Act against the accused Ganesh Raut but submitted final form against the petitioner in the court of the Sub Divisional Judicial Magistrate, Birpur, Supaul,



who, thereafter, on perusal of the chargesheet and the materials available in the case diary took the cognizance of the offence under Section 7 of the Essential Commodities Act against the accused Ganesh Raut and this petitioner also through the impugned order.

5. Learned counsel for the petitioner submits that while the petitioner was named in the F.I.R. alongwith the accused Ganesh Raut, but the police, on investigation, submitted the final form against the petitioner and submitted the chargesheet against the accused Ganesh Raut for the offence under Section 7 of the Essential Commodities Act but the learned Sub Divisional Judicial Magistrate, Birpur, Supaul, illegally took the cognizance of the offence under Section 7 of the Essential Commodities Act against the petitioner also through the impugned order on the basis of the chargesheet and the materials available in the case diary.

6. On perusal of the impugned order, it appears that the learned Sub Divisional Judicial Magistrate, Birpur, Supaul, on going through the chargesheet and the materials available in the case diary took the cognizance of the offence under Section 7 of the Essential Commodities Act against the petitioner and the co-accused Ganesh Raut, while the Investigating Officer, on investigation, submitted the final form against the petitioner. As such, I find no illegality in the impugned order amounting to an abuse of the process of the court for



interference with the same in an extraordinary jurisdiction of this Court under Section 482 of the Code of Criminal Procedure.

7. Accordingly, this application stands dismissed. However, the petitioner would be at liberty to raise all the points, as raised herein, at the appropriate stage in the trial court.

(Rajendra Kumar Mishra, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.09.2017.
Transmission Date	14.09.2017.

