

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27793 of 2012

Arising Out of PS.Case No. -193 Year- 2010 Thana -null District- SARAN

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1. Pappu Giri, son of Dharamdeo Giri, resident of village- Mangarpal, P.S.-
Dariapur, Distt.- Saran

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. D. N. Tiwari, Advocate

For the Opposite Party/s : Dr. Rabindra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 08-08-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 04.08.2011/03.01.2012 passed by the Chief Judicial Magistrate, Saran at Chapra, in Dariapur P.S. Case No.193 of 2010 by which the learned Magistrate has taken cognizance against the petitioner under Section 3/7 of the E.C. Act.

2. It is alleged that the petitioner was carrying on business of fertilizer without any licence. It is mentioned in the seizure list that 150 bags each of 50 kg. fertilizer of different variety and 250 litres of diesel were recovered from the shop of this petitioner. It is alleged that petitioner was not having valid licence.

3. Counsel for the petitioner has submitted that in terms of the notification issued by the Govt. of Bihar vide No.5/F-



45-90-8970 dated 17th October, 1992, (Annexure-4), there is no requirement of licence for selling fertilizer up to 10 Metric Ton. Counsel for the petitioner has also produced the Letter No. FC/Court Case-08/10 1140 dated, 21st September, 2010, of the Agriculture Production Commissioner, Bihar, Patna, filed in Cr. Misc. No.9134 of 2009, wherein, it has been mentioned that no any other circular/notification has been issued after the notification No.5/F-45-90-8970 dated 17th October, 1992, (Annexure-4), which exempts the requirement of licence for selling fertilizer up to 10 Metric Ton. Xerox copy of the aforesaid letter is kept on record of this case.

4. Counsel for the petitioner has further submitted that in similar situation criminal prosecution has been quashed by a Bench of this Court in Cr. Misc. No.34276 of 2012 vide order dated 09.12.2014.

5. In such circumstances, considering the facts that recovery of fertilizer was within the limit prescribed under the circular in that regard and it does not require any licecne, this Court is of the view that the order of cognizance dated 04.08.2011/03.01.2012 passed by the Chief Judicial Magistrate, Saran at Chapra, in Dariapur P.S. Case No.193 of 2010, is not in accordance with law.



6. Accordingly, impugned order dated 04.08.2011/ 03.01.2012 passed by the Chief Judicial Magistrate, Saran at Chapra, in Dariapur P.S. Case No.193 of 2010, along with entire criminal proceeding against the petitioner is hereby quashed.

7. The application is, accordingly, allowed.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	21-08-2017
Transmission Date	21-08-2017

