

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41991 of 2014

Arising Out of P.S.Case No. -274 Year- 2013 Thana -KHAGAUL District- PATNA

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Ankur Raj S/o Narendra Prasad Gupta, Resident of Gupta and Sons Kirana Shop,
Dalluchak, Police Station- Khagaul, District- Patna.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Anil Kumar Singh, Advocate

For the Opposite Party : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 18-09-2017

This criminal miscellaneous application under Section 482 of the Cr.P.C. has been filed to quash the order dated 27.08.2014 passed by SDJM, Danapur whereby and whereunder the learned Magistrate took cognizance against the petitioner for the offence under Section 420 of the IPC.

2. Heard learned counsel for the petitioner as well as learned APP for the State.

3. The Opposite Party No.2 happens to be Excise Officer of Danapur Range who submitted written report to the Sub Divisional Magistrate, Danapur alleging therein that this petitioner was found selling salt at the rate of Rs.60 per K.G. The concerned police station registered Khagaul P.S.Case No.274 of 2013 under Section 7 of the Essential Commodities Act and 420 of the IPC. The matter was investigated and police submitted chargesheet only for the offence under sections 420 of the IPC. The learned Magistrate



took cognizance accordingly.

4. In written report, I do not find any ingredient constituting offence under Section 420 of the IPC. It appears from the report of SDJM that the charge was framed on 23.07.2016 and more than one year have passed over but not a single witness has been produced although the witnesses are police officials. The allegation of cheating appears vague and not specific. It has been alleged that the petitioner was found selling salt at the rate of Rs.16/- per K.G. but not a single independent witness at the time of enquiry supported allegation of cheating to any person. There is not a single cheat of paper on record to show that the petitioner had sold salt at such rate to any person.

5. In such circumstance criminal prosecution of this petitioner appears to be an abuse of the process of the Court. This criminal miscellaneous application is, accordingly, allowed and order dated 27.08.2014 passed by SDJM, Danapur as well as criminal prosecution of the petitioner is quashed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
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