

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17487 of 2014

Arising Out of PS.Case No. -129 Year- 2013 Thana -BASANTPUR District- SIWAN

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Pramod Kumar Singh, son of Shrikant Singh, Resident of Village + P.O- Bithuna,
P.S.- Basantpur, District- Siwan

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Chandan, Advocate.

For the Opposite Party/s : Mr. Ashraf Ansari, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 11-09-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 12.12.2013 passed by the learned Chief Judicial Magistrate, Siwan, in connection with Trial No. 4195 of 2014 arising out of Basantpur P.S. Case No. 129 of 2013 by which the learned Magistrate took cognizance against the petitioner for the offences under Section 420 of the Indian Penal Code and Section 7 of the Essential Commodities Act.

2. The prosecution case is that on 01.06.2013, the informant Arvind Kumar Singh, who was the Block Supply Officer, Basantpur, at that time, had submitted a written report, to the Station Head Officer of Basantpur Police Station, wherein it is alleged that he



received a secret information that Pramod Kumar Singh (petitioner) was storing domestic LPG Cylinders (14.2 kg.) in his residential house. He raided the house of petitioner and found 55 filled LPG Cylinders of Indane Company stored in one of the rooms of the petitioner and 41 empty cylinders of the same company were also found. The petitioner stated that the cylinders belong to the consumers and it has been provided by M/s. Shakuntala Gas Service, Maharajganj, for distribution. He was operating a distribution point. He produced 66 domestic consumer cards/pass-books belonging to different consumers residing in the notified areas (Nagar Panchayat). It has further been alleged that neither any authorized person from M/s. Shakuntala Gas Service was found present at the place of seizure, nor any claimant of the gas cylinders appeared at the spot. The petitioner was doing black-marketing of the gas cylinders with an intention to earn more profits in connivance with proprietor of M/s. Shakuntala Gas Service.

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

4. The counsel for the petitioner has submitted that petitioner was operating a distribution point at the place of seizure under valid Gas Agency namely, Shakuntala Gas Service. The petitioner even told the informant about this fact, but informant did



not take any notice on such statement. It has further been submitted that M/s. Shakuntala Gas Service was allowed to operate the aforesaid LPG distribution point pursuant to the concession given by the competent authority of Indian Oil Corporation, vide its letter dated 30.09.2008 (Annexure-3). The petitioner was accordingly operating as distribution point to enable the consumers in the far-flung places in rural areas to get the delivery of LPG cylinders conveniently and for operating such a distribution point, the petitioner was validly authorized by the competent authority of the Gas distributor, namely M/s. Shakuntala Gas Service, Maharajganj. Photocopy of authorization letter issued by M/s. Shakuntala Gas Service has been enclosed as Annexure-2.

5. It has further been submitted that Ministry of Petroleum & Natural Gas, Government of India, vide letter dated 24.08.2004 had allowed the distributors of Urban/rural categories to operate in free areas not coming under the area of operation of other distributors. Based upon this communication of the Government of India, the regional office of the Indian Oil Corporation Limited had allowed M/s. Shakuntala Gas Service to operate in rural areas and establish distribution centers. The aforesaid letter has been enclosed as Annexure-4.

6. In this manner, from the Annexure annexed as



aforesaid, it is apparent that this petitioner was authorized by M/s. Shakuntala Gas Service to act as distribution Centre (sales representative) for sale of LPG Gas of Bharat Petroleum to the LPG Gas customers of M/s. Shakuntala Gas Service, Maharajganj.

7. Case diary has been received.

8. The witnesses in the case diary have stated before the police that they were having gas connection with M/s. Shakuntala Gas Service and were receiving the Gas Cylinders from this petitioner.

9. From the entire case diary, it appears that police has not recorded the statement of M/s. Shakuntala Gas Service, so that statement made by the informant and other witnesses can be verified.

10. Police has submitted charge sheet against this petitioner. The learned Magistrate has taken cognizance against the petitioner on the basis of charge sheet for the offence under Section 420 of the Indian Penal Code and Section 7 of Essential Commodities Act, by the impugned order dated 12.12.2013. The learned Magistrate has in mechanical manner without looking into the facts and materials available in the case diary, has taken cognizance against the petitioner. Therefore, the impugned order passed by the learned Magistrate is not in accordance with law.

11. Accordingly, the impugned order dated 12.12.2013



passed by the learned Chief Judicial Magistrate, Siwan, in connection with Trial No. 4195 of 2014 arising out of Basantpur P.S. Case No. 129 of 2013 along with the entire criminal proceeding, against the petitioner is hereby quashed.

12. This Criminal Miscellaneous application is accordingly allowed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	03/10/2017
Transmission Date	03/10/2017

