

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.47276 of 2014

Arising Out of PS. Case No.-136 Year-2013 Thana- BIRPUR District- Supaul

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Guna Nand Mehta Son of Late Dhanik Lal Mehta resident of Village - Birpur,
Ward No. 9, P.S. - Birpur , District - Supaul.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Parmeshwar Mehta, Adv

For the Opposite Party/s : Mr. ANAND KISHORE CHOUDHARY(APP)

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 12-10-2017

Heard learned counsel for the parties.

This petition under Sectoin 482 of the Cr.P.C has been filed for quashing the order dated 03.09.2014, passed by S.D.J.M., Birpur, Supaul by which cognizance under Sections 409, 420, 421, 273,275 and 120B of the Indian Penal Code, Section 7 of the E.C. Act and Section 8/13(1)A and 13(4) of Seeds Control Order, has been taken.

Briefly stated, the facts of the case is that upon a written report of Sub-Divisional Agriculture Officer, Birpur and S.D.P.O. Birpur alleging therein that a joint raid was conducted by the Sub-Divisional Agriculture Officer, Birpur and S.D.P.O.



Birpur on the godown belonging to Mehta Agriculture Centre, Birpur, foodgrains viz Moong Seeds supplied by Govt. through S.F.C in a bag of 4 Kg packet, which was checked and found to be kept in 84 gunny bags for black marketing purpose and the empty packets of old bags has been kept for evidence. The report further alleged that the seeds were supplied under Hari Chadar Yojana for agriculture purpose meant for agriculturists on hundred percent subsidy. All the seeds were kept in 84 gunny bags weighing 4 Kg bearing marks of F.C.I./A.S.C and the same was seized and kept in the police station and the proprietor namely Pradeep Kumar Mehta was apprehended. The proprietor could not produce any sale register and stock register and no board was displayed, which was in contravention of the provisions of Seeds Control Order 1983.

It has been submitted on behalf of the petitioner that FIR named accused Pradeep Kumar Mehta produced his licence of Fair Price Shop and he has got a godown on rent in the house of Ram Chandra Sah and Moong Seeds alleged to have been supplied to him was kept in the godown and all the 84 bags has been seized and kept in Police Station and dealer of Fair Price Shop namely Pradeep Kumar Mehta was also arrested. The petitioner has been falsely implicated in this case during



investigation as the petitioner is full brother of Pradeep Kumar Mehta and is not connected with the affairs of Pradeep Kumar Mehta and is residing separately.

After investigation, chargesheet no. 51 of 2014 on 06.03.2014 for the offences punishable under Sections 409, 420, 421, 273, 275, read with Section 120B of the Indian Penal Code, Section 7 of the E.C. Act and Section 8/13(1)(a), 13(A) and 13(4) of the Seeds Control Order, was submitted against the petitioner.

On the basis of chargesheet, supplementary chargesheet, police papers and materials available on record, the trial court took cognizance against the petitioner and issued summons for his appearance to face the trial.

At the stage of taking cognizance the court has to form an opinion that *prima facie* case on the basis of materials available on record against the accused is made out or not. The defence of the accused cannot be considered at the time of taking cognizance. This Court also in its inherent jurisdiction cannot substitute its view regarding sufficiency of material before the court below and substitute its view against summons order issued by the trial court, as such I am not inclined to interfere with the order dated 03.09.2014, at this stage. The



petitioner will be at liberty to raise all the issues raised before this Court as well as other points available to him in accordance with law at subsequent stage i.e. at the time of filing of discharge petition/framing of charge, if not already framed.

With the said observation and liberty, this petition is disposed of.

ranjan/-

(S. Kumar, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	02.11.17
Transmission Date	02.11.17

