

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.4451 of 2012

Arising Out of PS.Case No. -141 Year- 2010 Thana -Kudra District- BHABHUA (KAIMUR)

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1. Ravindra Kumar S/o Sri Ramchalichra Ram R/O Village - Manita, P.S. Madanpur, District - Aurangabad

.... Petitioner/s

Versus

1. The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ravindra Kumar

For the Opposite Party/s : Mr. Akhileshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 01-08-2017

The present application under Section 482 of the Code of Criminal Procedure has been filed to quash the order dated 14.09.2011 passed by the learned S.D.J.M., Kaimur, Bhabhua in Kudra P.S. Case No. 141 of 2010 whereby and whereunder the Magistrate finding prima facie case for the offence under Sections 4, 5, 6 and 7 of the Essential Commodities Act and Liquefied Petroleum Gas Regulation of Supply and Distribution Order, 1993 summoned the petitioner.

2. Heard both sides and perused the record.

3. The above police case was registered on the written report of S.H.O. of Kudra Police Station. The informant apprehended a vehicle without having any registration number and



seized 40 gas cylinders, which was being transported for the purpose of black marketing.

4. It has been submitted that the petitioner is the proprietor of Shipra Gas Agency. He has no concern with the seizure of gas from the said vehicle. The informant is not competent to seize the vehicle as provided under the Act. There is no antecedent against the petitioner showing his involvement in any illegal trade of gas. The learned Magistrate has passed the order taking cognizance in mechanical way without applying judicial mind and so, the same is fit to be quashed.

5. The learned A.P.P. for the State, on the other hand, opposed the submissions. It was submitted that the apprehended person disclosed the name of this petitioner. The witnesses have supported the allegation of transporting gas by this petitioner. The defence of the petitioner and also the competency of the informant in lodging the case cannot be taken into consideration at this stage in view of the specific allegation of involvement of the petitioner in illegal trade of gas distribution.

6. On perusal of F.I.R. and case diary, I find that this petitioner is named in the F.I.R. with specific allegation that the said gas cylinders which were seized belong to the agency of this petitioner. The informant in his written statement and other



witnesses at paragraph nos. 5, 8, 10, 14 and 15 have supported the allegation of recovery of gas cylinders from the Magic Van without having any registration number. The witnesses have stated that this petitioner and the proprietor of another gas agency namely, Mohini Enterprises were indulged in the illegal trade of supplying gas after taking more money than the actual price. The case has been found true and the police have submitted charge-sheet against this petitioner and other co-accused. The learned Magistrate has rightly taken cognizance against the petitioner. The defence of the petitioner and also the competency of the informant in lodging F.I.R. shall be considered at the time of trial.

7. In view of above facts, I do not find any merit in this application. This Criminal Miscellaneous Application is, accordingly, dismissed.

(Sanjay Kumar, J)

ajaypd./-

AFR/NAFR	NAFR
CAV DATE	NA
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