

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.46771 of 2013

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Naresh Prasad Agrawal Son Of Late Ram Balak Sah Resident Of Village -
Kothwara, P.S. - Sherghati, Distt. - Gaya

.... Petitioner.

Versus

The State Of Bihar

.... Opposite Party.

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Appearance :

For the Petitioner : Mr. Dhananjaya Nath Tiwari, Advocate,
For the State : Mr. G.S.Gupta (APP)

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

3 24-05-2017 Heard the parties.

2. Petitioner was made accused in Sherghati (Dobhi)

P.S.Case No. 276 of 2012 registered for the offences punishable under Section 7 of the Essential Commodities Act and Section 420 and 120B of the Indian Penal Code on the accusation that the rice in huge quantity, kept in several bags, was recovered from his godown as well as from his truck which was found standing in front of his shop.

3. The informant claimed that the seized rice belonged to the Food Corporation of India as some empty bags of FCI were recovered from the godown of the petitioner and also the stickers of the Food Corporation of India were found tagged on the bags in which rice had been kept.



4. The police, after investigation, submitted chargesheet and having perused the materials available in the chargesheet, the learned court below took cognizance of the offence punishable under Section 7 of the EC Act and Sections 420 and 120B of the Indian Penal Code against the petitioner passing the impugned order.

5. The contention on behalf of the petitioner is that the rice is not a controlled item and there is no limit of its storage. He further submits that the first information report does not disclose as to which control order has been violated. He further submits that Section 7 of the EC Act is applied only when any offence violating the provision under Section 3 of the EC Act is made out. He further submits that so far as Sections 420 and 120B of the Indian Penal Code are concerned, the same are also not applicable in the present case because there is nothing on the record to show that any person was cheated by the petitioner. He also submits that in several cases, this Court have already quashed the prosecution of similar nature. In support of his contention, he placed the order dated 30.04.2010 passed in Cr. Misc. No. 4784 of 2009, the order dated 12.05.2010 passed in Cr. Misc. No. 9668 of 2008, the order dated 26.09.2011 passed in Cr. Misc. No.28532 of 2009 and the order dated 26.02.2015 passed in Cr. Misc. No. 37997 of 2012.



6. Admittedly, rice is not a controlled item and it is also an admitted position that the bags of FCI are available in open market. Moreover, there is nothing on the record to show that any control order has been violated and, therefore, in view of the aforesaid circumstances as well as in the light of previous decisions of this Court, this petition is allowed and the impugned order dated 23.09.2003 passed by the S.D.J.M, Sherghati, District-Gaya, in Sherghati (Dhobi) P.S.Case No.276 of 2012 stands quashed.

(Hemant Kumar Srivastava, J)

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