

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.47247 of 2013

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1. Champa Devi, Wife of Sundar Lal Sharma, Resident of Village Falsara, Police Station Balrampur, District Katihar.
 2. Bibi Kurshela, Wife of Md. Sohel Akhtar, Resident of Village Digal Dariya, P.S. Balrampur, District Katihar.
 3. Jagarnath Singh @ Jagannath Singh, Son of Late Chandradeso Singh, Resident of Village Kamra, Police Station Balrampur, District Katihar.
- Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioners : Mr. N.K. Agrawal, Senior Advocate
Mr. Vijoy Anand, Advocate
For the State : Md. Mushtaque Alam, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

4 28-06-2017 Heard learned counsel for the petitioners and the learned APP appearing on behalf of the State.

2. The petitioners are accused in Balrampur P.S. Case No.7 of 2013 (G.R. No.299 of 2013) lodged under Section 7 of the Essential Commodities Act. The petitioners are shopkeepers under the Public Distribution Scheme and they have challenged the order dated 08.07.2013 by which cognizance has been taken under Section 7 of the Essential Commodities Act by learned Chief Judicial Magistrate, Katihar.

3. The police case was lodged by Circle Officer, Barsoi and the allegation is that 300 bags of rice lifted by these PDS shopkeepers from SFC godown was being carried to its



destination but there was a diversion in the route and the allegation is that the foodgrains were being taken to another neighbouring State, i.e., West Bengal to sell in black market.

4. Mr. N.K. Agrawal, learned senior counsel appearing on behalf of the petitioners submits that in fact at the relevant point of time the shortest route to reach to the PDS shops, passed through a bridge which was damaged and being repaired. Heavy vehicles were not passing through diversion, therefore, the foodgrains were being transported by another alternative route and merely on suspicion this case was lodged. The petitioners had moved before this Court earlier against the cancellation of licenses of their PDS shops as their licenses were cancelled after institution of this case. The same plea was taken there that alternative route was being followed and the Court by order dated 20.03.2017 passed in CWJC No.2199 of 2016 directed all concerned officials to inquire in the matter whether the truck was moving in quite opposite direction of the destination of the petitioners' shop or moving towards the destination of the petitioners' shop. Considering the report of the authorities vide Annexure-9, i.e., the order of Sub-divisional Officer, Barsoi finding that an alternative route was being followed as the primary route was damaged so order of cancellation was revoked and licenses were restored,



hence the entire allegation raises suspicion only due to diversion of route and there is no material in the case diary for taking cognizance.

5. The learned APP opposes the prayer.

6. It appears that the petitioners challenged order of cancellation of their licenses subsequent to the lodging of the First Information Report in the present case. In CWJC No.2199 of 2016, direction was given by the Court to the authorities to enquire the matter whether the truck was going in opposite direction or following an alternative route going to the direction of the petitioners' PDS shop; finding is that the truck was going through an alternative route so the order of cancellation of licenses of the petitioners by the licensing authorities was revoked accordingly restored. So in the present case only suspicion of black marketing is raised merely on the ground that truck had diverted its route though it was going through an alternative route as per the inquiry done by concerned authorities. So in this backdrop of the fact even if the allegations remain unrebutted or unchallenged in the cross-examination during trial, there cannot be conviction of the petitioners, therefore, the continuation of the criminal proceeding in the matter would be abuse of the process of the Court, accordingly the order taking cognizance dated



08.07.2013 by the learned Chief Judicial Magistrate, Katihar in Balrampur P.S. Case No.7 of 2013 (G.R. No.299 of 2013) and subsequent criminal proceeding is set aside.

7. In result, the quashing petition is allowed.

(Arun Kumar, J.)

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