

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17346 of 2014

Arising Out of PS.Case No. -19 Year- 2008 Thana -PIPRA District-
EASTCHAMPARAN(MOTIHARI)

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Ram Sagar Mishra Son of Ramlagan Mishra, resident of village- Paltu Belwa, P.S.-
Chakiya, District- East Champaran.

.... Petitioner

Versus

1. The State of Bihar
2. Block Development Officer, Chakiya, P.S.- Chakiya, District- East Champaran
at Motihari.

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Ajay Kumar Thakur, Advocate
Mr. Md. Imtiyaz Ahmad, Advocate
Miss Babita Kumari, Advocate
For the State : Mr. Nawal Kishore Prasad, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 08-09-2017

1. This petition under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 28.2.2014 passed by the C.J.M., East Champaran in Pipra P.S. Case No.19 of 2008 by which the learned Magistrate took cognizance against this petitioner for the offences under Sections 406, 409, 420, 471 of the Indian Penal Code and Section 7 of the Essential Commodities Act.

2. The prosecution case in brief is that Vishwanath Thakur, Panchayat Dealer had lifted 500 quintals of rice under Sampurna Gramin Rojgar Yojana 30% for financial year 2006-07 and he did not distribute the said grains and misappropriated the same. Accordingly,



the Block Development Officer raided the P.D.S. shop and found the allegation true and as such F.I.R. was lodged. The police, during investigation on the basis of supervision note of the Deputy S.P., submitted charge sheet against the petitioner. The court below, after looking into the charge sheet and other material in the case diary, took cognizance against this petitioner by the impugned order for the offences under Sections 406, 409, 420, 471 of the I.P.C. and Section 7 of the E.C. Act.

3. The entire Lower Court Records along with case diary has been received.

4. Learned counsel for the petitioner has submitted that the entire allegation is levelled against the P.D.S. dealer Vishwanath Thakur. The witnesses in the entire case diary did not disclose any role of this petitioner in the aforesaid non-distribution of the food grains. The charge sheet has been submitted on the basis of supervision note of Dy. S.P. as will appear from the case diary. The case diary has been received along with L.C.R.

5. Learned A.P.P. after looking into the case diary submitted that police in the supervision note has mentioned the name of this petitioner. The petitioner was Godown Manager. It has come that there is no proper register maintained by this petitioner which can show that the food grain was supplied from the godown to the P.D.S.



dealer.

6. From perusal of the case diary, this Court finds that not a single witness has levelled any allegation of overt act against the petitioner. The name of the petitioner has come only in the supervision note of the police. Thereafter charge sheet has been submitted against the petitioner.

7. The learned Magistrate, by the impugned order in the mechanical manner, took cognizance against this petitioner on the basis of charge sheet submitted by the police. Therefore, the impugned order dated 28.2.2014 passed by the court below against this petitioner is not in accordance with law.

8. Accordingly, the impugned order dated 28.2.2014 passed by learned C.J.M., East Champaran, Motihari in Pipra P.S. Case No.19 of 2008 along with entire criminal prosecution against the petitioner is hereby quashed.

9. This application is allowed.

(Sanjay Priya, J)

N.H./-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	21-09-2017
Transmission Date	21-09-2017

