

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.53327 of 2013

Arising Out of PS.Case No. -163 Year- 2006 Thana -KHIJARSARAI District- GAYA

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Bisu Sao son of Ram Kishun Sao, resident of Village- Chirailli, P.S.- Khizersarai,
District- Gaya Petitioner/s

Versus

The State of Bihar Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari

For the Opposite Party/s : Mr. P.N. Pandit

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

C.A.V. JUDGMENT

Date: 01-08-2017

Heard learned counsel for the parties.

Petitioner, by means of this application under section 482 of the Code of Criminal Procedure, have invoked the inherent jurisdiction of this Court with prayer to quash the order dated 16.04.2013, passed by Sub-Divisional Judicial Magistrate, Gaya, in Khizersarai P.S. Case No. 163 of 2006, Tr. No. 642 of 2012, whereby accusation has been explained to the petitioner in a case registered under section 7 of the E.C. Act.

The contention of the learned counsel for the petitioner is that the present prosecution has been instituted with mala fide intention for the purposes of harassment. As a matter of fact, petitioner at no point of time was found dealing in kerosene oil. Nothing has been recovered from his possession.

Learned counsel appearing for the State opposes the application by contending that there are allegations against the



petitioner and no ground for quashing the impugned order is made out.

Having heard learned counsels for the parties and keeping in view of the facts and circumstances of the case, there appears no force in the arguments advanced by learned counsel for the petitioner. The submissions made by the learned counsel for the petitioner call for adjudication on pure questions of fact which may be adequately adjudicated by the trial Court. Moreover, the order impugned whereby charge has been explained to the petitioner in a case registered under section 7 of the Essential Commodities Act, is a revisable order and in view of the fact that the applicant has an alternative remedy to file a revision against the same, this Court is not inclined to interfere in the matter by exercising its extraordinary jurisdiction under section 482 Cr.P.C.

In view of the above, the application is dismissed. However, petitioner would be at liberty to raise his defence in the trial Court at appropriate stage.

(Arvind Srivastava, J)

Manish/-

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