

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.18503 of 2014

Arising Out of PS.Case No. -139 Year- 2007 Thana -BAHADURGANJ District- KISANGANJ

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Md. Shahab Alam, son of Late Md. Rafique Alam, resident of Alamara Villa, Line
Khanquah Road, Kishanganj, P.S. & Distt. - Kishanganj

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s :

For the Opposite Party/s :

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 13-09-2017

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The petitioner is an accused in Bahadurganj P.S.Case
No. 139 of 2007 registered under Section 7 of the Essential
Commodities Act (hereinafter referred to as the 'Act'). Petitioner
seeks quashing of the order dated 23.09.2013 passed by the learned
S.D.J.M., Kishanganj in the said case whereby he has dismissed the
petition filed under Section 239 Cr.P.C. for discharging him from the
case for reasons being the case is summary trial, so this provision is
not applicable in the present case.

3. Learned counsel for the petitioner assails the
impugned order on the ground that there is no notification under
Section 12A of the Act with regard to L.P.G. for which the present



case has been registered against the petitioner and that the offence relating to L.P.G. summary trial will not be followed.

4. Contrary to that, learned counsel appearing on behalf of the State submits by filing counter affidavit and annexing Annexure-B, a notification under Section 12A of the Act issued by the State Government in the year 2003 itself which vests all Sub Divisional Judicial Magistrates with the power under Section 260(i)(c) of the Code of Criminal Procedure, 1973 for conducting summary trial of the offence relating to contravention of any order made under Section 3 of the Act .

5. Having considered the rival submissions and in view of notification dated 11.08.2003 issued by the State Government for the offence relating to violation of Section 3 of the Act is to be tried by the learned Sub Divisional Judicial Magistrate and all such cases are summary trial and the procedure of summary trial has to be followed so the trial court has rightly rejected the application under Section 239 Cr.P.C. The application stands dismissed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
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