

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45792 of 2014

Arising Out of PS.Case No. -21 Year- 2010 Thana -JADIA District- SUPAUL

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Yognarayan Choudhary Son of Late Narshingh Choudhary Resident of Village -
Hirapatti, P.O. - Kiriapatti, P.S. - Jadia, District- Supaul.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Rajeev Kumar Labh, Advocate

For the Opposite Party/s : Mr. Rajednra Prasad Nat, APP

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 22-09-2017

The present petition has been preferred for quashing the entire proceeding including the order dated 17.04.2012 passed by the learned Chief Judicial Magistrate, Supaul.

2. The brief facts of the case are that the Block Supply Officer, Triveniganj, filed a complaint dated 25.04.2010 before the Officer In-Charge, Jadia Police Station *inter alia* alleging therein that he received a secret information that government wheat totaling 238 sacks was lying on the roof of the house of one Ramdeo Choudhary and thereafter the same was seized. The said 238 sacks was brought on two tractors being driven by Md. Jabbar and the said 238 sacks, brought on the aforesaid tractors, were received by one Yognarayan Choudhary, a P.D.S. dealer, in lieu of the allotment made to him. The said wheat was to go to the shop of the dealer at Korlia Patti.



However, the same reached Nandana Panchayat. The said 238 sacks of wheat was seized and it was alleged that Shri Yognarayan Choudhary, a dealer, instead of taking the wheat to Korla Patti, had taken the said wheat to an opposite place at a distance of 15 km. with the intention of black marketing the same. The said wheat was recovered from the house of Ramdeo Choudhary.

3. The police had registered a case bearing Jadia P.S. Case No. 21 of 2010 dated 25.04.2010 under sections 7 of the Essential Commodities Act (hereinafter referred to as the 'E.C. Act') against Yognarayan Choudhary and Ramdeo Choudhary. The Police had filed charge sheet dated 13.04.2011 against one Pappu Choudhary under section 7 of the E.C. Act, keeping investigation open against the FIR named accused persons. Thereafter the Police had filed supplementary charge sheet dated 29.03.2012 against the FIR named persons including the petitioner herein under section 7 of the E.C. Act. In the aforesaid matter while accepting the charge sheet filed against Pappu Choudhary, cognizance was taken against the accused Pappu Choudhary by the learned S.D.J.M., Supaul by an order dated 18.04.2011. Subsequently, summons have been issued for the offence under section 7 of the E.C. Act against the FIR named accused persons including the petitioner herein, by the learned S.D.J.M., Supaul by an order dated 17.04.2012.



4. The aforesaid order dated 17.04.2012 is under challenge in the present petition.

5. The learned counsel for the petitioner has submitted that the aforesaid order dated 17.04.2012 has been passed without any application of mind and merely on the ground that cognizance was taken against the aforesaid Pappu Choudahry earlier, hence summons should be issued against the petitioner herein also.

6. I have heard the learned counsel for the parties and find that the learned S.D.J.M., Supaul has issued summons to the FIR named accused persons, not only on the ground that cognizance has been taken against Pappu Choudhary earlier, but has also found that a *prima facie* case is made out against the FIR named accused persons, one of them being the petitioner herein, warranting issuance of summons against them, I do not find any perversity or illegality in the impugned order dated 17.04.2012 passed by the S.D.J.M., Supaul.

7. For the reasons stated hereinabove, there is no merit in the present petition and the same is dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

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