

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.571 of 2016

Arising Out of PS.Case No. -161 Year- 2013 Thana -MADHEPUR District- MADHUBANI

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1. ASHOK KUMAR PASWAN @ ASHOK PASWAN Son of Shivdhari
Paswan, Resident of Village Berma, Tola Bijlipur, P.S. Medhapur, District
- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Jha

For the Opposite Party/s : Mr. Awdhesh Kumar Singh (App)

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

2 06-09-2018 Heard the learned counsel for the petitioner as well

as the State.

The petitioner seeks quashing of order dated
01.07.2014 passed by learned Additional Chief Judicial
Magistrate, Jhanjharpur in Madhepur P.S. Case No. 161/2013,
whereby the court below has found *prima facie* case for offence
under Section 7 of the E.C. Act.

In the written report, filed by Block Supply
Inspector, Lakhnour, Madhubani, it is alleged that the petitioner
being PDS Dealer lifted 201.70 quintal wheat and 284.35 quintal
rice for B.P.L. in the month of May, 2012 to November, 2012 and
in March, 2013 for distributing the same among beneficiaries, but
he did not distribute the same. It is also alleged that informant



repeatedly went to his house but he did not turn up before him. Subsequently, letter no. 180 dated 20.07.2013 was sent to him to produce the relevant papers and registers on 30.07.2013, but he did not produce the same. The informant raised suspicion that petitioner might not have distributed the food-grains among beneficiaries and sold it in black market.

Learned counsel for the petitioner has submitted that beneficiaries have given statement under Section 164 Cr.P.C. stating therein that they have been allotted food-grains in time. Several witnesses in case diary have also stated that they have been distributed food-grains in time.

Police after investigation submitted charge-sheet against petitioner. Cognizance has been taken by court below on the basis of allegation in the written report and the charge-sheet, submitted by police.

This Court is of the view that statement of witnesses recorded under Section 164 Cr.P.C. is required to be looked into at the time of trial.

In view of such, this Court does not find any illegality in the impugned order.

Accordingly, this quashing petition is dismissed.

The petitioner is given liberty to raise all the points



as raised in this petition at appropriate stage of trial including at the time of framing of charge, which shall be considered by the court below in accordance with law without being prejudiced by this order.

(Sanjay Priya, J.)

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