

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44768 of 2015

Arising Out of PS. Case No.-240 Year-2012 Thana- DESARI District- Vaishali

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Lal Babu Rai Son of Late Ramdeen Rai, Resident of Village - Dharampur
Ram Rai, P.S. - Deshri, District - Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. N.K.Agrawal, Sr. Advocate with Mr.
D.N.Tiwari, Advocate

For the Opposite Party/s : Mr. T.P.Mandal APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

3 31-07-2018 This petition has been filed under Section 482 Cr. P.C. for quashing the order dated 24.6.2015 passed by learned Judicial Magistrate 1st class Vaishali at Hazipur in Trial no. 6920 of 2015 arising out of Desari (Chandpur) P.S. case no. 240 of 2012, by which the learned Magistrate has taken cognizance for the offence under Section 7 of the Essential Commodities Act against the petitioner.

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

Learned counsel for the petitioner has submitted that police after investigation submitted final form in the case, after finding the case not true. The learned court below after differing with the final form without giving any reason in the impugned order has taken cognizance against the petitioner for the offence under



Section 7 of the E.C.Act. It is further submitted that there is no mention in the written report which order of the Act has been violated by the petitioner. Learned counsel has further submitted that petitioner has not violated any of provision of Section 3 of the E. C. Act. Therefore the order of cognizance is bad in law.

In the written report, it is alleged against this petitioner that during inspection of the shop of the petitioner 16 consumers made an allegation of short supply of 250 ml K. oil and petitioner has failed to supply extra 500 ml K. oil in the month of December, 2011. The counsel for petitioner has submitted that during investigation, the police has recorded statement of the beneficiaries/ consumers attached with the shop of the petitioner including 9 persons out of 16 consumers who categorically stated that they regularly received food grains and K. oil from the shop of the petitioner. The allegation of short supply of K.Oil against petitioner is baseless. The police after completion of investigation has submitted final form. The photo copy of the final form has been annexed as Annexure-2.

The case diary has been received. Learned APP after perusing the case diary has submitted that police has submitted final form in the case as none of the beneficiaries/consumers has levelled any allegation against this petitioner. The learned Magistrate by the impugned order without giving any reason or discussing any material which he has found in the case diary has taken cognizance against petitioner by order dated 24.6.2015.



There is no mention in the FIR of violation of any order of the E.C. Act. There is no allegation that petitioner has violated any provision of Section 3 of the E.C. Act. Therefore, the order taking cognizance by the learned Judicial Magistrate dated 24.6.2015 is bad in law.

Accordingly, the impugned order dated 24.6.2015 passed by Judicial Magistrate 1st Class, Vaishali at Hazipur in Trial no. 6920 of 2015 arising out of Desari (Chandpur) P.S. case no. 240 of 2012 along with the entire criminal proceeding against the petitioner is hereby quashed.

This Cr. Misc. petition is allowed.

(Sanjay Priya, J)

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