

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.36869 of 2015

Arising Out of PS.Case No. -89 Year- 2014 Thana -DEO District- AURANGABAD

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Santosh Kumar son of Late Gauri Shankar Prasad, resident of Sita Lal Gali,
opposite Sun Temple, Deo, P.S.-Deo, District- Aurangabad

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. N.K.Agrwal, Sr. Advocate
: Mr. Amresh Kumar Sinha, Advocate
For the State : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 21-02-2018

This application under Section 482 of the Code of Criminal Procedure has been filed by the petitioner for quashing of the police report submitted under Section 173(2) of the Cr.P.C., vide report no.40/15 dated 31.05.2015 and the entire investigation arising out of Deo P.S. Case No.89 of 2014 dated 23.11.2014 registered for the offences under Section 409 of the Indian Penal Code and Section 7 of the Essential Commodities Act by which the case was found true against one Birendra Singh a PDS dealer and the petitioner from whose godown 138 bags of rice weighing 54.81 quintals and 93 bags of wheat weighing 36.54 quintals were recovered.

2. It would appear from the first information report that the recovered seized rice and wheat were subsidized food grains supplied by the government under the 'Antyodaya' Scheme to the PDS dealer,



who is alleged to have supplied the same to the petitioner in black market.

3. Learned counsel for the petitioner submitted that there is nothing on record to show that the seized rice and wheat were of 'Antyodaya' Scheme and merely on suspicion and hypothetical presumption a false FIR has been instituted against the petitioner. He submitted that there was no material on the basis of which the police could have found the allegations made in the FIR to be true and submitted charge-sheet against the petitioner. According to him, the investigation conducted by the investigating officer is perfunctory and bad in law.

4. I have heard learned counsel for the parties and perused the record.

5. The allegations made in the FIR do attract ingredients of a cognizable offence. The investigating officer found the case true on the basis of the statement of the witnesses recorded in course of investigation under Section 161(3) of the Cr.P.C. and submitted the police report in accordance with law. At this stage, it would not be proper for this Court to give any finding on the materials collected during investigation. The entire material is before the court concerned, who has to apply his mind and form an opinion as to whether or not there is prima facie material to take cognizance of the offence and



summon the petitioner for trial. In my considered opinion, the present application is pre-mature. Once the court of competent jurisdiction applies its mind over the materials on record and passes its order, it would be open to the petitioner to challenge the same in accordance with law, if he is so aggrieved.

6. For the reasons assigned above, the application is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

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