

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.216 of 2016

Arising Out of PS.Case No. -null Year- null Thana -null
District- WESTCHAMPARAN(BETTIAH)

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Sachchidanand Dubey son of Late Mahadeo Dubey, resident of
Village- Diuliya, Police Station- Shikarpur, District- West
Champaran.

.... Petitioner/s

Versus

The State of Bihar

.... Respondent/s

with

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Criminal Revision No. 293 of 2016

Arising Out of PS.Case No. -null Year- null Thana -null
District- WESTCHAMPARAN(BETTIAH)

- =====
1. Lagan Rai @ Ram Lagan Rai son of Shri Basant Rai resident of
village - Dudhawa Bhawal, Police Station - Ramnagar, District -
West Champaran.
 2. Chhotelal Prasad @ Chhotelal Gupta son of late Raghunath Sah
resident of village - Ramnagar, Police Station - Ramnagar,
District - West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Respondent/s

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Appearance :

(In CR. REV. No.216 of 2016)

For the Petitioner/s : Mr. Brij Kishore Mishra, Advocate

For the Respondent/s : Mr. Ram Priya Sharan Singh, APP

(In CR. REV. No.293 of 2016)

For the Petitioner/s : Mr. Brij Kishore Mishra, Advocate

For the Respondent/s : Mr. M. Rab, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date: 19-06-2018

Both the petitions have been heard together and a
composite order is being passed.



The petitioners have been made accused in connection with Shikarpur P.S. Case No. 354 of 2008 dated 24.11.2008 instituted for the offence under Section 7 of the Essential Commodities Act, 1955.

It was alleged in the F.I.R that from a tractor trolley 250 containers of mustard oil, each containing 15 litres of oil was intercepted. The petitioner/Lagan Rai(Cr. Revision No. 293/2016) was said to be driving the vehicle. He disclosed before the Police Party that the aforesaid consignment of mustard oil was to be delivered to the petitioner/Sachchidanand Dubey (Cr. Revision No. 216/2016) who had purchased the same from one Chhote Lal Gupta of Ramnagar (Cr. Revision No. 293/2016). Hence, the F.I.R in which the investigation proceeded.

After investigation, charge-sheet was submitted, whereupon cognizance was taken.

An application was filed by the petitioners/revisionists for their discharge under Section 239 of the Code of Criminal Procedure on the ground that there was no requirement of obtaining any permit for storing or transporting mustard oil which has been de-notified now. However, the prayer for discharge of the petitioners was rejected, which order has been impugned in the present petition.

For charging and prosecuting the petitioners, it would



be necessary that the offence under Section 7 of the Essential Commodities Act, 1955 be made out.

The Bihar Trade Articles(Licenses Unification) Order, 1984 has been amended and the licensing requirements and movement of certain articles have been removed by the aforesaid amendment in the year 2002. Section 3 of the said amendment order of 2002 provides that with the coming into effect by the order referred to above, any dealer may freely buy, stock, sell, transport, distribute, dispose, acquire, consume or store any quantity of wheat, paddy, rice, coarse grains, sugar, edible oil and shall not require a permit or license under any order issued under the Essential Commodities Act, 1955.

Since the mustard oil falls in the category of the articles which have been de-notified/de-classified, there is no violation of any unification order and hence, no prosecution can be lodged against the petitioners under Section 7 of the Essential Commodities Act. That apart, petitioners are not the dealers under the procurement scheme of the Government and there is no allegation that the aforesaid quantity of the mustard oil was stolen article or an article which was meant for use under any different scheme.

Considering the aforesaid facts, it is difficult to sustain the order impugned whereby the prayer for discharge of the petitioners were been rejected.



As such, the order dated 03.02.2016 passed by the learned Sub-Divisional Judicial Magistrate, Bettiah, West Champaran in G.R. Case No. 3290 of 2008/E.C 25 of 2015, arising out of Shikarpur P.S. Case No. 354 of 2008 rejecting the prayer of the petitioners to discharge for the offence under Section 7 of the Essential Commodities Act, 1955 are set aside.

The petitioners are discharged from the case viz. Shikarpur P.S. Case No. 354 of 2008.

The applications are allowed.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27/06/2018
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