

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15437 of 2014

Arising Out of PS. Case No.-292 Year-2013 Thana- ALAMGANJ District- Patna

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Dilip Kumar Son Of Late Rajendra Choudhary Resident Of Malia Mahadeo,
Maharajganj, Jalla Road, P.S.- Alamganj, District- Patna

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar
For the Opposite Party/s : Mr. Amitesh Kumar (APP)

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
CAV JUDGMENT

Date : 11-04-2018

Heard learned counsels for the parties.

Petitioner, by means of this application under section 482 of the Code of Criminal Procedure, has invoked the inherent jurisdiction of this Court with prayer to quash the entire prosecution for the offence under section 420 of the Indian Penal Code and section 7 of the Essential Commodities Act, arising out of Alamganj P.S. Case No. 292 of 2013 pending in the Court of Additional Chief Judicial Magistrate, Patna City, Patna.

Facts of the case, *in brief*, is that on the confidential information with regard to illegal storage of rice under the Government Scheme in godown of Diwya Kumar, was opened after breaking the lock in his presence, which was let out on rent



by the petitioner. In that course, rice in bags stitched by machine and marked with Government of Punjab, Haryana Agro Industries Corporation and sticker were found. It is also alleged that bags of 25 kg. of different brands, electronic weighing machine were found. Thereafter, it is alleged that the petitioner after polishing the rice and bags in different brands used to sell in black market. It is also alleged that different brands of empty jute bags and electronic weighing machine were also seized and seizure list was prepared and the first information report was lodged in this regard.

Learned counsel appearing on behalf of the petitioner submits that petitioner is not a P.D.S. Dealer and he is not the owner of the seized items. He deals in free sale of food grains. The trade of rice has been de-licensed from the year 2002 and the restriction have been lifted. The movement of control, storage limit, requirement of license, maintenance of stock register, issuance of cash memo, display of stock and price position have been abolished. The petitioner used to purchase the food grains from the open market from the agriculturists.

Learned counsel further contends that on perusal of Annexure-2, it is apparent that the seized items were purchased by the petitioner from different traders on genuine receipts. There



is no control order for dealers dealing in food grains other than the P.D.S. dealers. It is also submitted that bags with marks of different corporations are easily available in the open market and are being used by the agriculturists, traders, millers throughout the country on which there is no restriction. The petitioner has not violated any provision of section 3 of the Essential Commodities Act. Hence, section 7 of the Essential Commodities Act is not made out. Further petitioner has not cheated any one and as such, section 420 of the Indian Penal Code is not attracted against this petitioner. Merely because the bags are marked with government agency presumption can be raised that the rice in question is of any government scheme, but it is not so. The entire case is based mere on suspicion of the informant.

Having considered the above facts and circumstances of the case and the materials available on records, this Court finds substance in the submissions advance on behalf of the petitioner and agrees with the same. In the present case, petitioner is not a P.D.S. Dealer and he deals in only in the sale of rice, which is not covered under any control order.

In view of the discussions made above, in the opinion of this Court, continuance of the present proceeding would be an abuse of the process of the Court. Hence, the entire prosecution



arising out of Alamganj P.S. Case No. 292 of 2013 pending in the
Court of Additional Chief Judicial Magistrate, Patna City, is,
hereby, quashed.

Accordingly, the application stands allowed.

(Arvind Srivastava, J)

Shailendra/-

AFR/NAFR	NAFR
CAV DATE	13.11.2017
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