

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.1970 of 2018

Arising Out of PS. Case No.-24 Year-2013 Thana- KISHANGANJ District- Kishanganj

Raj Kishore Agrawal, S/o Shyam Lal Agarwal, Resident of Dahipatti Road,
P.S.- Kishanganj, District- Kishanganj.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal Sr. Advocate Mr. Dhananjaya Nath Tiwari Advocate
For the Opposite Party/s :		Mr. Chandra Bhushan Prasad APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 24-07-2018 The petitioner, who is the proprietor of Jagdamba Enterprises, which deals with sale of gas cylinders, seeks quashing of the order dated 26.09.2013 passed by the learned court below in connection with Kishanganj P.S. Case No. 24 of 2013, whereby cognizance has been taken against him under Section 7 of the E.C. Act.

On the orders of the District Magistrate, Kishanganj, the Block Supply Officer of Kishanganj conducted a raid in the betel shop of one Bablu Kumar Das at Kishanganj. In the aforesaid raid, consumer cards of 12 consumers, out of which 7 cards belonged to the agency of the petitioner, were recovered. Some



documents with respect to gas connection of a consumer and two filled domestic gas cylinders were also found in the betel shop of the aforesaid Bablu Kumar Das. One Mazahar Alam was also arrested with two gas cylinders on a cycle, who told the raiding team that he had purchased the same from Taj Gas Agency. The petitioner is sought to be prosecuted in the aforesaid case on the ground that his agency has been charging more money from the consumers.

Learned counsel for the petitioner has submitted that but for the recovery of the consumer cards of some of the customers of the agency of the petitioner, there is no other material to show that the petitioner had been charging extra amount for supply of LPG cylinder. Even if such an allegation came to the fore during the course of the raid or through the mouth of any one of the customers, the offence was squarely made out as against those persons who were trying to middle in the matter.

The premises of the petitioner was never raided and no irregularly, therefore, was unearthed. The records and the accounts of petitioner's gas agency could only have shown whether any extra amount has been realized from the consumers. Merely because some of the consumers cards were found in possession of a



person who is stated to have acted as a middle man, the petitioner cannot be prosecuted for the offence under Section 7 of the E.C. Act.

Under similar circumstances, the case of one of the other co-accused persons, namely, Anwar Yusuf, who happens to be a proprietor of the Taj Gas Agency, and who had approached this Court for quashing of the order of cognizance, was allowed by a Bench of this Court vide order dated 01.01.2017 passed in Cr. Misc. No. 47965 of 2013.

Mr. N. K. Agrwal, learned senior Advocate has submitted that the case has not yet travelled beyond the stage of cognizance.

Considering the aforesaid facts, the order taking cognizance is set aside. Resultantly, all the subsequent orders also stand quashed.

The application is allowed.

(Ashutosh Kumar, J)

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