

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39987 of 2014

Arising Out of PS. Case No.-437 Year-2012 Thana- BEGUSARAI TOWN District- Begusarai

Arun Kumar Singh Son of Jhapo Singh Resident of Village-Ramdiri Tola
Labharchak, P.S.-Matihani, District-Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shailendra Kumar

For the Opposite Party/s : Mr. SANJAY KUMAR PANDEY (APP)

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 31-01-2018

Heard learned counsel for the parties.

This petition under Section 482 of the Cr.P.C has been filed for quashing the order dated 16.06.2014 passed by S.D.J.M. Begusarai in Begusarai Town P.S. Case No. 437 of 2012(G.R. No. 3444 of 2012), by which cognizance under Section 7 of the Essential Commodities Act has been taken against the petitioner.

Briefly stated, the facts of the case is that on the basis of written report of Block Supply Officer, Gardhpura before the Officer-in-Charge of Begusarai Town police station, Begusarai Town P.S. Case No. 437 of 2012 was registered, alleging therein that on 31.10.2012 at about 2:00 pm on the basis of letter of District Supply Officer and S.D.M. Begusarai, the informant



alongwith other officers searched the godown and business place of M/s Beer Ajay Gas Agency, Bharat Gas, Ratanpur, Begusarai where owner Ramashray Singh, Manager and other staffs were present. During the course of inquiry several irregularities were found and there was violation of display order 1977(3) and Liquefied Petroleum Gas (Regulation of Supply and Distribution) Order 2000 (5) by the agency. Register and cash memo were not found to be attested by the authority. The petitioner is the staff of the agency and is Computer Assistant and is not concerned with day to day work of the agency. The case was instituted against Ramashray Singh, Proprietor of Gas Agency and its Manager. The petitioner is neither the owner of the agency nor the Manager of the agency, but is an employee as Computer Assistant and is not concerned with the affairs of the agency, as such cognizance of the offence under Section 7 of the Essential Commodities Act against the petitioner is not made out.

Learned counsel for the petitioner relies upon a judgment of this Court in the case of **Arvind Kumar vs the State of Bihar** reported in **2014(4) PLJR 255**, in which it has been held that no prosecution under the Essential Commodities Act could be launched against a private person. For any



violation of the provisions of the Essential Commodities Act, only the agents or the PDS dealers could be prosecuted. Para 7 of the said judgment is relevant, which is quoted hereinbelow:-

"The Essential Commodities Act has been framed for the benefit of consuming public. For any violation of the provisions of the Essential Commodities Act or the Control Orders, promulgated under the authority of the Essential Commodities Act, only the agents or the P.D.S. Dealers could be prosecuted. Kerosene oil, being a controlled item, is governed by a necessary Control Order. However, since the petitioner is not a P.D.S. Dealer, he cannot be tried for the offence under Section 7 of the Essential Commodities Act."

Since, the petitioner is neither a licensee nor a dealer under the Essential Commodities Act, no prosecution case under Essential Commodities Act can be initiated against the petitioner, as such the order taking cognizance dated 16.06.2014 passed by S.D.J.M. Begusarai in Begusarai Town P.S. Case No. 437 of 2012(G.R. No. 3444 of 2012), is quashed.

The petition is allowed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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