

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.47486 of 2014**

Arising Out of PS. Case No.-247 Year-2013 Thana- BRAHMPUR District- Buxar

Shailendra Kumar @ Shailendra Kr. Yadav son of Shri Bhagwan Yadav,  
Resident of Village-Rahathuan, P.O. Bahathuan, P.S. Brahampur, District-  
Buxar

... .. Petitioner/s

Versus

1. The State of Bihar
  2. Block Agriculture Officer, Brahampur, Brahampur Block, District- Buxar.
- ... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Manendra Kumar Sinha  
For the Opposite Party No. 2 : Mr. Ram Niwas Prasad  
For the State : Mr. Ashok Kumar, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**  
**ORAL ORDER**

4      07-03-2018              The brief facts of the case are that at the instance of Block Agriculture Officer, Brahampur Block, Buxar, the present Brahampur P.S. Case No. 247 of 2013 was registered on 12.09.2013 under Section 7 of the Essential Commodities Act. In the said written report of the opposite party no. 2, it has been alleged that after the opposite party no. 2 received information from the S.D.O. that some bags of manure were being unloaded for the purposes of black marketing then he came near the State Bank and saw that two pick-up vans were standing on road in front of Kushuaha Beez Bhandar and some bags of manure were being unloaded from the said vans to the shop whereafter two persons namely, Raj Kumar Yadav and Prem Chandra Yadav were interrogated by the informant and they said that the said manure had been given by the petitioner for sale. It is alleged that the owner of the shop i.e. Kushwaha Beez Bhandar namely, Umesh Kumar Kushwaha also disclosed that the said bags containing manure had been taken from the petitioner



herein. The police had investigated the matter and filed a charge sheet and thereafter the learned court of C.J.M., Buxar had taken cognizance under Section 7 of the Essential Commodities Act by an order dated 02.11.2013 against the petitioner herein and three other persons. The aforesaid order dated 02.11.2013 passed by the learned C.J.M., Buxar is under challenge before this Court in the present petition.

The learned counsel for the petitioner has submitted that the entire investigation conducted by the police would bear it out that neither the petitioner is owner of the said vehicle nor the owner of the shop or the godown where the alleged manure was being kept. It is further submitted that the petitioner is not in any way connected with the said manure, said to have been seized by the opposite party no. 2.

Per contra, the learned counsel for the opposite party no. 2 has also made his submissions, however, he has failed to show any material to connect the petitioner herein with the alleged offence. Nonetheless, the learned counsel for the opposite party no. 2 submits that as far as the other three persons are concerned, they might be having some complicity in the matter but as far as the petitioner is concerned, there does not appear to be any material so as to prosecute the petitioner herein.



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

It is a trite law that if upon a bare reading of the FIR or upon a bare perusal of the materials on record, no cognizable offence is made out for the offenses alleged, the proceedings are liable to be quashed. Reference in this regard be had to the judgment of the Hon'ble Apex Court, rendered in the case of *State of Haryana vs. Bhajan Lal*, reported in *1991 suppl. 1 SCC 335*.

Having regard to the facts and circumstances of the case, I deem it fit and proper to quash the order dated 02.11.2013, passed by the learned C.J.M, Buxar in connection with Brahampur P.S. Case No. 247 of 2013, G.R. No. 2124 of 2013, as far as the petitioner herein is concerned.

It is made clear that the setting aside of the present prosecution, qua the petitioner herein, would not be construed as reflection of any opinion by this Court on the merits of the case as far as the other accused persons are concerned.

The petition is allowed to the aforesaid extent.

S.Sb/-

**(Mohit Kumar Shah, J)**

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