

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.673 of 2012

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1. Asif Ali S/O Late S.M. Dawood Resident Of Village- Dargha Bela, P.S-
Baligaon, District- Vaishali.

.... Petitioner/s

Versus

1. The State Of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Adv.
Mr. Vijay Anand

For the Respondent/s : Mr. Ansarul Haque Sahara (App)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

10 10-04-2018 The petitioner has challenged the order dated

25.05.2012 passed by the learned S.D.J.M., Samastipur in
connection with Samastipur Town P.S. Case No. 115/2006 dated
10.03.2006 instituted for the offences under Section 7 of the E.C.
Act read with Sections 420 and 414 of the Indian Penal Code,
whereby the prayer made on behalf of the petitioner for being
discharged has been refused.

It has been alleged in the F.I.R. that on secret
information a raid was conducted in the godown of the F.C.I.,
where it was found that a truck was parked which was loaded with
rice. No papers with respect to the aforesaid rice could be offered
by the driver. One of the persons, viz. Nand Kishore Pathak, who
was found near the truck, also could not disclose anything about



the rice. With respect to the petitioner, it has been alleged that he is an employee of the F.C.I. and was helping in the unloading of the aforesaid rice. It appeared to the informant that the rice which was to be provided to the agriculturists with subsidy was being attempted to be misappropriated for the purposes of selling in black-market. Hence, the F.I.R.

Mr. N.K. Agrawal, learned senior counsel appearing for the petitioner has submitted that assuming the allegation in the F.I.R. to be correct, no offence under Section 7 of the E.C. Act or for that matter under Sections 414 and 420 can at all be said to have been made out. There is no violation of any control order attracting the mischief of Section 7 of the E.C. Act. The investigations do not reveal that the aforesaid bags of rice were stolen for the purposes of being sold in the black-market. Under which programme the aforesaid rice was to be given to the agriculturists also is not known. Merely on the suspicion of the informant without there being any definite source of information about the rice being taken or being unloaded for the purposes of black-marketing, the petitioner and others have been made accused in this case. The rice, it has been argued, was only being unloaded in the F.C.I. godown campus. This itself goes to show that the allegation of the same being misappropriated or routed for



the purposes of being sold in the black-market is incorrect. If this were the intention, the rice would have been unloaded some where else in stealth. In the absence of any specific accusation against the petitioner, it has been argued, he cannot be tried for the offences which have been alleged against him.

Under similar circumstances, the order of cognizance against one of the accused, viz. Nand Kishore Pathak has been quashed by a Bench of this Court vide order dated 01.03.2011 passed in Cr. Misc. No. 15239/2008.

From the records, it is difficult to ascertain as to which offence has been committed by the petitioner. There is no evidence with respect to theft of the rice or of any violation of any control order leading to application of Section 7 of the E.C. Act. For the offences under Sections 420 and 414 of the Indian Penal Code, it is of utmost importance that there should be dishonest inducement or deception for the purposes of delivering any profit to person who is not entitled to receive the same. Merely because the petitioner was found to be helping in the unloading of the rice in the F.C.I. godown, that would not bring home charges under any one of the sections of the Indian Penal Code as well. Where was the rice brought from and where was it being taken to is not known.



Thus, the accusation appears to be vague without any specific allegation against the petitioner.

For the aforesaid reasons, the order dated 25.05.2012 passed by the learned court below refusing to discharge the petitioner cannot be sustained and the same is set aside.

The present revision petition is allowed.

(Ashutosh Kumar, J.)

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