

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.9910 of 2015

Arising Out of PS Case No.-214 Year-2013 Thana- RAJPUR District- Buxar

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Satyendra Kumar Singh son of Nawal Kishore Singh, resident of Adarsh Nagar, P.S.- Buxar, District- Buxar, Proprietor M/S New Krishi Vikash Kendra, Buxar

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shammi Kappor Das, Block Agriculture Officer, Rajpur, son of Motilal Das, resident of village Bolnarikala, P.O. Paibigha, P.S. Makhdumpur, District Jehanabad.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Mishra, Advocate

For the State : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 06-05-2019

Heard learned counsel for the petitioner and learned APP for the State.

2. The petitioner has moved the Court under Section 482 of the Code of Criminal Procedure, 1973 for the following relief:

“That this is an application for quashing of order dated 1.7.14 passed in Rajpur P.S. case no.214/13 G.R.



no.2739/13 passed by the learned C.J.M., Buxar, whereby and whereunder he has taken cognizance against the petitioner under sections 19(c) (VI)/19(c) (ii) of Fertiliser (Control) order, 1985 and sections 7(i) (A) (ii) of the Essential Commodities Act, 1955 and section 420 of the Indian Penal Code.”

3. The basic allegation against the petitioner is that the government grant for distribution to the farmers of organic fertilizer (wormy compost and city compost) by the petitioner, upon inspection of his godown, was not found and instead compressed mud was found. Accordingly the prosecution has been lodged in which cognizance has been taken.

4. Learned counsel for the petitioner submitted that the said compressed mud had been sent to him by the sugar factory as it was waste there and the same was for distribution free of cost to the farmers and further that compressed mud is not categorized as a fertilizer and, thus, not covered under the Fertilizer Control Order, which is one of the charges against the petitioner. It was further submitted that there is no evidence with regard to the petitioner indulging in black marketing of the organic fertilizer in question.

5. Learned APP submitted that cognizance has been taken on the basis of investigation made by the police and charge sheet submitted against the petitioner and, thus, at this stage, the Court is not required to go into an in-depth scrutiny of the



materials available and it has only to see as to whether *prima facie* there is indication of the offence being committed which, in the present case, does appear to be so. He further submitted that the charge against the petitioner is that instead of the organic fertilizer which was to be distributed to the farmers under the government scheme, compressed mud was found and the petitioner not being able to explain as to where the organic fertilizer meant for distribution was, the order impugned cannot be said to be bad in law.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the present application. As has rightly been submitted by learned APP, the allegations relate to the organic fertilizer not being found and in its place compressed mud having been found in the godown of the petitioner who was chosen as the agency by the government for distribution of the grant of such organic fertilizer among the farmers. Further, on the day of such distribution, if the organic fertilizer was not found and in its place compressed mud was found, it cannot be said that no offence is made out against the petitioner or the order taking cognizance is bad. Thus, it is all the more imperative that full-fledged trial takes place where all concerned shall have full opportunity to present



their case and the petitioner shall also have full opportunity to prove his innocence, in accordance with law, before the Court concerned.

7. In view thereof, the application stands dismissed.

(Ahsanuddin Amanullah, J)

Anjani/-

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