

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 37367 of 2015

Arising Out of P.S. Case No.-31 Year-2014 Thana- TAJPUR District- Samastipur

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Dilip Kumar Sah @ Dilip Sah aged about 36 years, Son of Late Munilal Sah,
Resident of Village- Motipur, P.O.- Tajpur, P.S.- Tajpur, District- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeet Kumar, Advocate
For the State : Mr. Md. Arif, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 15-02-2019

Heard learned counsel for the petitioner and learned
A.P.P. 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 the present application is being filed
for quashing of the order dated 17.03.2015 passed
by the learned S.D.J.M., Samastipur by which
cognizance of the offence has been taken under
section 7 of the Essential Commodities Act in
connection with Tajpur P.S. Case No. 31 of 2014
(State Versus Dilip Sah and others), pending in the
learned Court of S.D.J.M., Samastipur.”*

3. The allegation against the petitioner is that in the
godown run by him, huge quantity of rice stored in gunny bags of
Food Corporation of India (hereinafter referred to as the ‘F.C.I.’)



along with its tag were found, which were sealed as well as unsealed.

4. Learned counsel for the petitioner submitted that under The Essential Commodities Act, 1955, there is no Control Order with regard to storage of rice and, thus, the godown of the petitioner having the rice is not an offence by itself. It was further submitted that the petitioner has bought the rice from various grain merchants from Bhojpur as well as Delhi.

5. Learned A.P.P. submitted that the allegation against the petitioner is not only of storage of huge quantity of rice but mainly of not being able to explain the source and most importantly, the sealed bags of foodgrains bearing F.C.I. tag. It was further submitted that even the so called receipt from the grain merchants which have been annexed with the present application, the same relates to the bills of grain traders of Delhi and Bhojpur. It was pointed out that the glaring feature is that the bills are in continuation i.e., Bhojpur Trading Chawal Mill receipt no. 79 dated 05.01.2014, no. 80 dated 08.01.2014, no. 81 dated 09.01.2014 thereafter no. 85 dated 11.01.2014, no. 86 dated 12.01.2014 and no. 88 dated 13.01.2014. It was further submitted that the same indicates that the bills were later on created and run in sequence though of different dates and surprisingly, it is hard to



believe that Bhojpur Trading Chawal Mill was only dealing with the petitioner, who has his godown in the district of Samastipur.

6. Learned counsel submitted that a trader of Bhojpur for ten days issuing receipt in favour of the petitioner, who is at Samastipur, obviously the plea is not *bona fide*. Similarly, it was submitted that Simran Traders of Delhi, are said to have issued bills numbered as 707 dated 18.01.2014, 711 dated 19.01.2014, 713 dated 20.01.2014, 715 dated 21.01.2014 and 718 dated 25.01.2014. Thus, it was submitted, that even such grain Merchant having issued bills also in continuity in a span of one or two days, it is hard to believe that such huge amount would be bought by the petitioner from Delhi and kept in the godown without rolling the stock.

7. It was submitted that from the possession of the petitioner, from his godown, huge amount of rice packed in F.C.I. gunny bags with tag of F.C.I. also clearly indicates that the transaction was not legal and proper and in fact, the rice of F.C.I., which is to be distributed through the Public Distribution System was being diverted for sale in the open market and that too by repacking them in plastic sacks on which the brand marked was of Jay Mata Di D.V.S. Super rice.



8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds no merit in the application. The Court is in agreement with the submissions of learned A.P.P. that the allegations against the petitioner is not only of procuring huge quantity of rice, but more importantly, bearing the logo of F.C.I. and also having F.C.I. tag, for which there is no explanation, and thus, the charge against the petitioner cannot be said to be false and frivolous, at least at this stage.

9. For the reasons aforesaid, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

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