

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.335 of 2023

Arising Out of PS. Case No.-766 Year-2022 Thana- FATEHPUR District- Gaya

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1. Asmit Traders Through Its Proprietor Pradeep Kumar Asmit Traders Through Its Proprietor Pradeep Kumar Aged About 33 Years, Son Of Lakhn Prasad, R/O Village- Fatehpur, P.S.- Fatehpur, Distt- Gaya.
 2. Upendra Prasad S/O Ramji Prasad R/O Village- Lodhway Tola Lodichak, P.S.- Fatehpur, Distt- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Principal Secretary Food and Consumer Protection Department, Govt. of Bihar, Patna.
3. The District Magistrate, Gaya.
4. The Senior Superintendent of Police, Gaya.
5. The Sub Divisional Officer, Sadar Gaya, Distt- Gaya.
6. The Block Supply Officer, Fatehpur, Gaya.
7. The Officer In Charge, Police Station Mufassil, Distt- Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Binay Kumar, Adv.
For the Respondent/s : Mr. Manish Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 12-04-2023 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner has filed this Cr. Writ application with
a request to quash the F.I.R. lodged in connection with Fatehpur
P.S. Case No. 766 of 2022 dated 05.12.2022, on illegal seizure
made by the Block Supply officer, Fatehpur, Gaya for 257 bags
of unboiled rice containing 50 kg in each equal to 128.50
quintals, 20 bags of broken rice (Khuddi) each containing 50 kg

equal to 10 quintals and 17 bags of paddy each containing 40 kg equal to 6.8 quintals as well as truck bearing registration no. BR02K 6260, on bald allegation which does not constitute any offence on legal foundation for the offence under section 7 of Essential Commodities Act and Sections 406, 420 of the I.P.C.

Counsel for the petitioner submits that petitioner no.1 is proprietor of a firm namely Asmit Traders, whereas, petitioner no.2 is the owner of the truck.

Counsel submits that three items namely rice, *khuddi*, and food-grains were recovered from the truck.

Counsel has annexed a law bearing “Removal of (Licensing Requirements, Stock Limits and Movement Restrictions) on Specified Foodstuffs Order, 2002”, published in G.S.R. 104(E), dated 15.02.2002- Published in the Gazette of India, Extra Part II, dated 15th February, 2002.

This order has been published in the light of power conferred by Section 3 of the Essential Commodities Act, 1955 (10 of 1955). The Central Government hereby makes the following orders :-

“1. Short title, extent and commencement- (a)

This order may be called the Removal of (Licensing Requirements, Stock Limits and Movement Restrictions)

on Specified Foodstuffs order 2002.

(b) It extends to all the States and Union Territories of India.

(c) It shall come into force after thirty days from the date of Publication in the Official Gazette.

2. Definitions.-

(i) "Dealer" means any person engaged in the business of purchase, movements, sale, supply, distribution or storage for sale of any of the commodities specified in Clause 3 of this order, directly or otherwise, whether as a wholesaler or retailer and whether or not in conjunction with any other business and his representative or agent.

(ii) "State Government" includes administration of a Union Territory.

3. With the coming into effect of this Order any dealer may freely buy, stock, sell, transport, distribute, dispose, acquire, use or consume any quantity of wheat, paddy/rice, coarse grains, sugar, edible oilseeds and edible oils and shall not require a permit or license therefor under any order issued under the Essential

Commodities Act, 1955.”

The petitioner has also annexed the entire cash memo through which the paddy and the rice were purchased.

Counsel has annexed a judgment dated 11.04.2018, passed in Cr. Misc. No. 15437 of 2014, with similar allegations, in which the other petitioner has moved before the Co-ordinate Bench and the Co-ordinate Bench has pleased to held that.

No offences made out of cheating of breach of trust, particularly when there are changes come in Section 3, as well as, no offence made out in under Section of E.C. Act. Only on the basis of suspicion, the present case has been filed.

In view of the discussions made above and in the opinion of the Court, the continuation of the present case is basically an abuse to the process of the Court and this Court is hereby **quashing** the entire proceedings relating to Fatehpur P.S. Case No. 766 of 2022 dated 05.12.2022.

With the aforesaid direction, this Cr. Writ petition is hereby allowed.

(Dr. Anshuman, J.)

Ashishsingh/-

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