

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34680 of 2015**

Arising Out of PS. Case No.-216 Year-2013 Thana- SINGHWARA District- Darbhanga

1. Gopal Sah
2. Jayaswal Kumar
Both sons of Sri Shivjee Sah resident of Village - Bharwara, p.s. -
Singhwara, Distt. - Darbhanga.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prakash Mahto, Advocate

For the Opposite Party/s : Mr. Dashrath Mehta, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

- 2 23-02-2023 Heard learned counsel for the petitioners and the
learned APP for the State.

The petitioner has moved this Court for quashing of the order dated 08.12.2014 passed by the learned Judicial Magistrate, Ist Class, Darbhanga in Singhwara P.S. Case No.216 of 2013 by which cognizance was taken under Sections 420, 467, 468, 471, 120B of the Indian Penal Code and Section 7 of the Essential Commodities Act.

As per the confidential information that the Government grain is being illegally sold, the informant, a Senior Deputy Collector of Darbhanga searched the 'Gopal Dal Mill' at Bharwara and recovered following articles:

- (i) 201 packets 'Kalash' brand rice
containing 100.50 kg. in each packet;



(ii) blank Yellow coloured unused
empty packet three pieces;

(iii) unused yellow printed double
Deer brand rice empty packets (150 pieces);

(iv) Sewing electric machine- 1
piece;

(v) Unprinted and unused white
packet – one bundle;

(vi) white coloured empty bucket
printed 'Pubjab Sarka'.

On inquiry, the younger son of the proprietor-petitioner herein, produced some documents to show that the rice was purchased from M/s Maa Laxmi Trading, Samastipur. However, on telephonic contact, the concerned trading company informed that he had not sold any rice to the petitioner herein. Further, there was no document to show that he has procured license to sale rice. The sacks that was recovered/seized had only the symbol of two deers without any further address. Accordingly, seizure made, FIR was lodged.

The matter was investigated and finally reached before the learned Judicial Magistrate, Ist Class, Darbhanga whereby cognizance was taken under Sections 420, 467, 468,



471, 120B of the Indian Penal Code and Section 7 of the Essential Commodities Act on 08-12-2014 i.e. almost a decade ago.

Learned counsel for the petitioner reiterated that he had valid document, to show that the purchase was made. The Annexure-4 that is part of the record against shows that the said purchase was made from M/s Maa Laxmi Trading, Samastipur which in the FIR itself, finds incorporated that the said shop chose to deny that any rice was sold to the petitioner. Further the rice sacks that were recovered/seized, there was no address as it. The petitioner also failed to clarify as to how without any license for selling the rice, such huge quantity was available in the godown.

Certainly, the decision of the learned court taking cognizance in the matter was justified and it would be appropriate for the petitioner to appear in the trial so that the same be taken to its logical conclusion, if still it has not been concluded.

No merit in the petition, dismissed.

(Rajiv Roy, J)

Prakash Narayan /-

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