

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36967 of 2017

Arising Out of PS. Case No.-10 Year-2016 Thana- KHIRI MORE District- Patna

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1. Ranjay Kumar @ Runjay Paswan S/O Bakhora Paswan, Resident Of Village- Bhatatu Bigha, P.S.- Kurtha, District- Arwal.
 2. Pankaj Raj @ Pankaj Kumar, S/O Makesar Singh, Resident Of Village- Motopur Chulan Bigha, P.S.- Kurtha, District- Arwal.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Sinha- Advocate

For the Opposite Party/s : Mr. Chandra Bhushan Prasad- A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 17-10-2023 1. Heard learned counsel for the petitioners and learned APP for the State.

2. The learned counsel for the petitioners submits that the present application has been filed seeking quashing of the order dated 02.06.2017 passed by Sri Amit Anand, the learned S.D.J.M., Danapur in G. R. No.595 of 2016 arising out of Khidimore P. S. Case No.10 of 2016, whereby an application filed on behalf of the petitioners seeking discharge under Section 239 of the Cr.P.C. has been rejected. The learned counsel for the petitioners submits that till date, charges have not been framed against the petitioners.

3. The learned counsel for the petitioners next submits



that from perusal of the allegation as alleged in the F.I.R., it would manifest that the informant alleges that on 21.02.2016, one Tata Magic bearing No. BR-25G-3937 was seized loaded with 07 drums of blue kerosene oil each drum containing 200 litres. The driver of the vehicle disclosed his name as Ranjay Kumar and the name of the vehicle owner as Sanjay Kumar and the clearer was Pankaj Kumar, but they failed to produce any papers relating to the kerosene oil. Accordingly, the F.I.R. was instituted under Section 7 of the Essential Commodities Act.

4. The learned counsel for the petitioners next submits that the petitioners are not P.D.S. Dealer and are private citizens and at best, it can be alleged that they were found carrying 1400 litres of blue kerosene oil in seven drums. It is next submitted that the F.I.R. does not disclose as to which Control Order was violated. It is further submitted that no prosecution under Section 7 of the Essential Commodities Act could have been initiated against the petitioners, since the petitioners are not P.D.S. Dealer.

5. The learned counsel for the petitioners next relies on an order of this Hon'ble Court in the case of *Arvind Kumar vs. State of Bihar reported 2014 (4) P.L.J.R. 255*, wherein this Hon'ble Court on a similar fact had quashed the proceedings



under Section 7 of the E. C. Act on the ground that the petitioners of the said case was a private persons and thus, cannot be proceeded under Section 7 of the E. C. Act.

6. The learned Additional P. P. opposes the quashing application.

7. Considering the submission made by the learned counsel for the petitioners, the order dated 02.06.2017 passed by Sri Amit Anand, the learned S.D.J.M., Danapur in G. R. No.595 of 2016 arising out of Khidimore P. S. Case No.10 of 2016, whereby an application filed on behalf of the petitioners seeking discharge under Section 239 of the Cr.P.C. was rejected, is hereby quashed.

(Satyavrat Verma, J)

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