

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62025 of 2021

Arising Out of PS. Case No.-277 Year-2005 Thana- SAMASTIPUR District- Samastipur

MD CHAND @ CHANDA BABU @ MD CHANDEV BABU Son of Innaul
Haq Resident of Balwa, P.S.- Ujiyarpur, District- Samastipur, Bihar.
... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Atul Shankar

For the Opposite Party/s : Mr.Parmeshwar Mehta

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 24-07-2023 Heard learned counsel for the parties.

2. Learned counsel for the petitioner will remove the defect.

3. This application has been filed for quashing of the order dated 16/08/2005 by which learned Sub Divisional Judicial Magistrate, Samastipur has taken cognizance against the petitioner in Tr. No. 1473/07 (G.R. No. 1087/2005), arising out of Mufsil P.S. Case No. 277 of 2005 registered for the offence under Section 7 of the Essential Commodities Act.

4. As per prosecution, complainant (Block Development Officer, Samastipur) has filed the prosecution report against the accused persons including the petitioner stating therein that on basis of secret information of black marketing a inspection has been conducted on 19.06.2005 at a village Rahimpur Raudali. The license holder of the said Fair Price Shop issued in the name of Umesh Shah, who was a P.D.S



Dealer. During inspection various anomalies were found with the said licensed shop. It is alleged that 40 gunny bags of grains i.e. 39 bags of rice and one bag of wheat weighing 50 kg was sold to one Ramchandra Shah by the license holder which is being delivered by the petitioner identified as driver of the said mini truck. On the basis of such complaint Mufsil P.S. Case No. 277/ 2005 was instituted.

5. Learned counsel for the petitioner submitted that the entire prosecution of the petitioner is not maintainable in view of the order dated 12.02.2009 passed in Cr. Misc. No. 47797 of 2007 which has been passed in the order of co-accused arising out of same F.I.R. For the reasons mentioned in the order dated 12.02.2009, this application is also allowed.

6. The order dated 16/08/2005 by which learned Sub Divisional Judicial Magistrate, Samastipur has taken cognizance against the petitioner in Tr. No. 1473/07 (G.R. No. 1087/2005), arising out of Mufsil P.S. Case No. 277 of 2005 is hereby quashed.

(Sandeep Kumar, J)

Ranjeet/-

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