

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17161 of 2017

Arising Out of PS. Case No.-13 Year-2015 Thana- THAKRAHA District- West Champaran

Sandeep Tiwari, son of Bhuneshwar Tiwari, Resident of village-Thakaraha
P.S.- Thakaraha, District- West Champaran Proprietor-Kali Ma Trading,
Thakaraha, West Champaran.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Sushmita Mishra Mr. Surya Narayan Sah, Adv Mr. Shishira Pathak, Adv Mr. Rakesh Kumar Pandey, Adv Ms. Shalini Mishra, Adv
For the Opposite Party/s :		Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 16-01-2024 1. Heard learned counsel for the petitioner and
learned APP.

2. The learned counsel for the petitioner submits that
the present quashing application has been filed seeking quashing
of the order dated 13-6-2016 passed by the learned SDJM,
Bagaha, West Champaran in Thakaraha PS case No. 13 of 2015,
whereby cognizance of offence under Section 7 of the E.C Act
has been taken.

3. The learned counsel next submits that an FIR came
to be instituted with an allegation that a truck bearing
Registration No. UP-52F-5792 was intercepted by the informant
on 30-1-2015 which was loaded with 365 bags of wheat,



thereafter, a three-man committee was constituted for inquiry with respect to the seized wheat, further, in view of the three-man committee report, the FIR was instituted under Section 7 of the EC Act.

4. The learned counsel next submits that from perusal of the allegation as alleged in the FIR, it would manifest that the same does not disclose that as to which order of the EC Act was violated. It is next submitted that the petitioner is proprietor of M/S Kaali Maa Trading Company, Thakaraha, Ali Tola, West Champaran, and had booked the aforesaid wheat on 30-1-2015 through Jayaswal Transport Agency, Tamkuhi Road, Kushinagar for Hazipur, Vijay Roller Flour Mill and the relevant papers were handed over to the driver of the truck bearing Registration No. UP-52F-5792. The learned counsel next submits that what is not disputed rather stands admitted is that the petitioner is not a PDS dealer rather is proprietor of M/S Kaali Maa Trading Company, as such, the petitioner cannot be implicated in a case under Section 7 of the EC Act.

5. The learned counsel next relies on an order of this Hon'ble Court in the case of *Arvind Kumar v. State of Bihar*, reported in *(2014) 4 PLJR 255*, wherein this Hon'ble Court, on a similar fact that petitioner of the said case being a private



person cannot be proceeded under Section 7 of the EC Act, quashed the entire proceedings. Learned counsel thus submits that the case of the petitioner is also covered by the order of this court in the case of *Arvind Kumar v. State of Bihar*.

6. Mr. Jharkhandi Upadhyaya, learned APP for the state, opposes the quashing application.

7. Considering the submission made by the learned counsel for the petitioner, the order dated 13-6-2016 passed by the learned SDJM, Bagaha, West Champaran in Thakaraha PS case No. 13 of 2015, whereby cognizance of offence under Section 7 of the E.C Act has been taken, is hereby quashed.

(Satyavrat Verma, J)

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