

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10409 of 2017

Arising Out of PS. Case No.-60 Year-2014 Thana- SALAKHUA District- Saharsa

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1. Surendra Bhagat son of – Late Devnarayan Bhagat, Resident of village- Bahuarwa Rameshwara tola ward no.-9, O.P. Banma itahri, P.S.- Salkhua, District- Saharsa.
2. Sri Ram Bhagat son of Sri Rajendra Bhagat, Resident of village- Bahuarwa, P. S.- Salkhua, District- Saharsa.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Anant Yadav, son of -Upendra Yadav, Resident of village- Bahuarwa east, P.S.- Salkhua (Banma itahri O.P.), District- Saharsa.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shekhar Kumar Singh

For the Opposite Party/s : Smt. Sucheta Yadav- A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 12-01-2024 1. Heard learned counsel for the petitioners and learned APP for the State.

2. The learned counsel for the petitioners submits that from perusal of the office report dated 10.01.2024, it would manifest that the same records that opposite party no.2 has received the ordinary as well as the registered notice. It is next submitted that the opposite party no.2 despite receiving notices chooses not to appear and contest the case, since no one is appearing on behalf of the opposite party no.2.

3. The learned counsel next submits that the present quashing application has been filed seeking quashing



of the order dated 17.11.2016 passed by Mr. N. P. Singh, the learned S.D.J.M., Saharsa in Salkhua (Banma Itahri) P. S. Case No. 60 of 2014, whereby cognizance of offence under Section 7 of the E. C. Act has been taken.

4. The learned counsel for the petitioners submits that in the nature of allegation as alleged in the F.I.R., prima facie no offence under Section 7 of the E. C. Act is made out against the petitioners. It is next submitted that from perusal of the allegation as alleged in the F.I.R., it would manifest that the informant, a private person, alleges that he apprehended one Rajiv Kumar Sah, who was carrying kerosene and he disclosed that he had purchased 100 litres of kerosene from the petitioners, who is a PDS Dealer.

5. The learned counsel for the petitioners further submits that after the F.I.R. was instituted, the allegations were levelled, the Circle Officer had inspected the P.D.S. Shop of the petitioners as would be evident from Page 81 of the quashing application and did not find any shortage, which amply demonstrates that the opposite party no.2 herein, instituted the aforesaid F.I.R. maliciously against the



petitioners as the wife of the petitioner no.1 had earlier instituted Salkhua P. S. Case No. 132 of 2008 against the informant and thereafter, petitioners had also instituted Complaint Case No.1275(C) of 2008 against the opposite party no.2. The learned counsel thus submits that since the F.I.R. was instituted with a malicious intention to harass the petitioners, as such, the opposite party no.2, even after receiving notice, chooses not to appear and contest.

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 17.11.2016 passed by Sri N. P. Singh, the learned S.D.J.M., Saharsa in Salkhua (Banma Itahri) P. S. Case No. 60 of 2014, whereby cognizance of offence under Section 7 of the E. C. Act is hereby quashed.

(Satyavrat Verma, J)

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