

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8261 of 2023

Arising Out of PS. Case No.-171 Year-2020 Thana- MAHUA District- Vaishali

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RAM LAL SINGH SON OF LATE PALAT SINGH R/O VILLAGE- MIRZA
NAGAR, P.S.- MAHUA, DISTRICT- VAISHALI

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Ajay Kumar Singh, Advocate
For the Opposite Party/s : Mr. Parmeshwar Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 22-04-2024 Heard learned counsel for the parties.

2. This application has been filed for quashing the order dated 31.03.2022 passed by the learned CJM, Vaishali at Hajipur, whereby and whereunder cognizance has been taken under section 7 of the Essential Commodities Act against the petitioner after taking cognizance , the case has been transferred in the Court of learned SDJM, Vaishali at Hajipur for appearance in Tr.No. 3049 of 2022 arising out of Mahua P . S. Case No. 171 of 2020.

3 . On the basis of a complaint, a joint inquiry was made, and on the basis of the joint inquiry, the First Information Report in question has been registered against the petitioner under Section 7 of the Essential Commodities Act. It is alleged



that when the inquiry was conducted, the shop in question was found closed, and no stock board was found in front of the shop. There was no receipt on record. It is further alleged that on March 28, 2020, some beneficiaries complained that no coupon was distributed in the month of March 2020. There was no distribution among the beneficiaries, and there was a large quantity of food grains available in the shops. After institution of the aforesaid case, a show cause was issued to the petitioner via memo No. 25/5 Supply dated April 1, 2020, and it has also been intimated that, as per order, the petitioner's shop has been suspended on March 30, 2020.

4. Learned counsel for the petitioner denies the allegations and submits that the allegation is wholly false and has been lodged without verification of facts, and the informant did not disclose the time when they arrived at the shop for inquiry. Even they have not taken the statement of any independent witness. The real fact is that they have never conducted a raid at the shop of the petitioner.

5 . Learned counsel for the petitioner further seeks quashing of the order of cognizance mainly on three grounds:-

(I) Firstly dealers under the Public Distribution System are exempted from prosecution by virtue of Clause



31(2) of the Bihar Trade Articles (Licences Unification) Order, 1984, as they happen to be the agents of the Government and their prosecution would amount to be an abuse of the process of the Court.

(II) Secondly, it is well settled by law of this Court that for inviting prosecution under Section 7 of the E . C . Act, the F.I.R. must disclose as to which Order made under Section 3 of the E . C . Act has been contravened or violated and in the absence of such statement or declaration in the *fardbeyan* or complaint no prosecution lies under Section 7 of the E . C . Act.

(III) Thirdly , the entire FIR has been based on vague allegations and on the basis of surmises and conjectures. No details have been given that who were the beneficiaries who have not been given the coupons.

6. On the other hand, the learned A.P.P. for the State has opposed the arguments advanced on behalf of the petitioner and submits that there is sufficient material on record against the petitioner and that it cannot be said that prima facie no case is made against this petitioner. He next submits that during the pendency of the case, the PDS license of the petitioner has already been restored, and as of date, the petitioner is running his PDS shop, as such, the petition is fit to be dismissed. Hence,



no interference is required by this court at this stage .

5. Having heard the submissions advanced by learned counsel appearing on behalf of the parties and on perusing the materials available on record, it is not in dispute that Public Distribution System is exempted from prosecution by virtue of Clause 31(2) of the Bihar Trade Articles (Licenses Unification) Order, 1984, as they happen to be the agents of the Government . It is also to be noted in this case that FIR does not disclose as to which order made under Section 3 of the EC Act has been contravened or violated in the absence of such statement or declaration in the *fardbeyan* or complaint and their continuation would amount to be an abuse of the process of the Court. As such, it would be unjust if the petitioners are forced to go through the tribulations of a trial.

7. In view of the foregoing discussions, order dated 31.03.2022 passed by the learned CJM, Vaishali at Hajipur, with respect to this petitioner, is hereby quashed.

8. This application is accordingly allowed.

(Prabhat Kumar Singh, J)

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