

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13719 of 2017

Arising Out of PS. Case No.-162 Year-2011 Thana- PHULWARIA District- Begusarai

Shiv Kumar Kejriwal Son of Sri Lakshmi Chand Kejriwal, resident of Teghra Bazaar, Thana Teghra, District Begusarai

... .. Petitioner/s

Versus

1. State Of Bihar
2. The District Agriculture Officer, Begusarai

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Priya Gupta

For the Opposite Party/s : Mr.Sri Sunil Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 21-04-2025 Heard the parties.

2. The present application has been filed for quashing the order of cognizance dated 7.4.2015 passed by the learned SDJM, Begusarai by which he has taken cognizance under Section 7 of the Essential Commodities Act in connection with Phulwariya P.S. Case No. 162 of 2011.

3. The First Information Report has been lodged by the Block Agricultural Officer, Teghra on 21.12.11 and the prosecution story in short is that a physical inspection was carried on 21.12.11 in the premises of M/s Krishi Kendra by the respondents and it was alleged that there was an illegal storage of fertilizer in the godown for the purpose of black marketing. It was further alleged that 1599 bags of fertilizer of a company namely Chambal Fertilizers and Chemicals Ltd. were kept in the premises and sale of fertilizers was being made by the petitioner



to the dealers other than those enlisted by the Block vigilance committee constituted by the State Government.

4. It has been submitted by the learned counsel for the petitioner that the entire prosecution case instituted against the petitioner is false as on 19.12.2011 an inspection was carried out in the business premises of the petitioner consisting of four godowns on the basis of directions issued by the District Magistrate, Begusarai and in course of such inspection it was found that the stock available in the godown was in accordance with the sales and purchase and in consonance with the records maintained by the petitioner.

5. It has further been submitted by the learned counsel for the petitioner that the District Agricultural Officer had himself inspected the stock and had himself authenticated the stock registers after proper verification which was found in order. He further submits that the Block Agriculture Officer, Teghra lodged the instant first informant report against the petitioner for allegations of black marketing, illegal storage of fertilizers and sale of fertilizers to the dealers not listed in the list of dealers prepared by the Block level Vigilance Committee and for the same allegations, the petitioner was proceeded against for cancellation of license of wholesale dealership of



fertilizer by the District Agriculture Officer, Begusarai.

6. Learned counsel for the petitioner further submits that the petitioner explained the circumstances in which the stock of 1599 bags of fertilizer belonging to Chambal Fertilizers and Chemicals Ltd. was found and also explained regarding sale of fertilizers to the dealers not enlisted in the list of the concerned committee but the District Agriculture Officer, Begusarai vide letter no. 23 dated 7.1.2012 proceeded to cancel the license of the petitioner and thereafter the Petitioner approached the appellate authority challenging the order of cancellation of license passed by the District Agriculture Officer, Begusarai and the same was restored which itself shows that the petitioner has not done any forgery.

7. He further submits that the civil proceeding initiated for the same set of allegations against the petitioner alleging violation of the orders formulated under E.C. Act has been decided in favor of the petitioner and it has been held that the petitioner has not violated any provisions under the E.C. Act and therefore the present prosecution may be quashed as the same is also initiated on the same grounds.

8. Learned counsel for the State has opposed the application of the petitioner and has supported the impugned



order.

9. I have considered the submission of the parties.

10. On the same allegation, the license of the petitioner was cancelled which has been restored vide order dated 27.08.2012 passed by the Appellate Authority-cum-Joint Agricultural Director, Darbhanga Division, Darbhanga on the same grounds on which the FIR has been registered.

11. The Hon'ble Supreme Court in the case of *Uttam Chand Vs. ITO* reported in (1982) 2 SCC 543 has held that once the basis goes everything goes and in that case has quashed the prosecution under IT Act when the assessment order was sustained. In this case also the order of cancellation of the licence has been set-aside by the appellate authority and therefore, the prosecution of the petitioner cannot be allowed to continue.

12. Accordingly, this application is allowed and the order of cognizance dated 7.4.2015 passed by the learned SDJM, Begusarai in connection with Phulwariya P.S. Case No. 162 of 2011 is hereby quashed.

(Sandeep Kumar, J)

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