

(2015) 09 JH CK 0045
In the Jharkhand High Court
Case No : W.P.(Cr.) No. 286 of 2010

Anil Agarwal

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 29-09-2015

Acts Referred:

Essential Commodities Act, 1955 — Section 7
Penal Code, 1860 (IPC) — Section 414

Citation : (2015) 4 JLJR 273

Hon'ble Judges : Prashant Kumar, J.

Bench : Single Bench

Advocate : Nilesh Kumar, for the Appellant

Final Decision : Allowed

Judgement

Prashant Kumar, J.—This application has been filed for quashing the entire criminal proceeding including the F.I.R. pertaining to Dhurwa (Tipudana) P.S. Case No. 39 of 2010 dated 27.2.2010 (G.R. Case No. 893 of 2010) instituted under Section 414 of the I.P.C. and Section 7 of the Essential Commodities Act. It appears that the informant, who is a Marketing Officer of Ranchi Sub Division, has conducted a search and seizure in the godown of petitioner on 26.2.2010 and found 102 bags of wheat and 600 bags of broken rice. It is alleged that the said food-grains have been purchased from different PDS shop dealers for the purpose of black-marketing. Accordingly, the present case has been instituted.

2. It is submitted by Sri Nilesh Kumar, learned counsel for the petitioner that as per Clause-10 of the Public Distribution System (Control) Order, 2001 only an authorized authority can carry out search and seizure in the business premises of a dealer. In the instant case, the Marketing Officer has not been authorized in the year 2010 to conduct search and seizure, therefore, the aforesaid search and seizure is illegal. It is submitted that the Government of Jharkhand has issued aforesaid notification on 18th September, 2013, which itself shows that on the date of search and seizure the Marketing Officer was not authorized for

conducting search and seizure.

3. J.C. to G.P.-III has not disputed the aforesaid submission.

4. Having heard the counsel for the parties, I have gone through the record of the case. Admittedly, the search and seizure carried out on 26.2.2010 by Marketing Officer of Ranchi Sub-Division. As per Clause-10 of the Public Distribution System (Control) Order, 2001, it is clear that only such officers are entitled to carry out search and seizure in the business premises of a dealer, who are authorized by the State Government by a notification. It is also an admitted position that the aforesaid notification was issued by the State Government on 18.9.2013. Thus, prior to 18.9.2013, no officer was authorized in the State of Jharkhand to carry out search and seizure as per the provisions of Public Distribution System (Control) Order, 2001. In view of the aforesaid facts and circumstances, the search and seizure conducted by Marketing Officer of Ranchi Sub-Division in the business premises of the petitioner on 26.2.2010 is wholly without jurisdiction, therefore, the F.I.R. lodged on the basis of aforesaid search and seizure is also illegal. In view of the discussions made above, I allow this application and quash the entire criminal proceeding in connection with Dhurwa (Tupudana) P.S. Case No. 39 of 2010 (G.R. No. 893 of 2010), pending in the Court of learned Chief Judicial Magistrate, Ranchi.