
(1986) 09 PAT CK 0008

In the Patna High Court

Case No : Criminal Miscellaneous No. 6270 of 1983

Basudeo Prasad and Others

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 05-09-1986

Acts Referred:

Essential Commodities Act, 1955 — Section 7

Citation : (1987) PLJR 1073

Hon'ble Judges : Anand Pd. Sinha, J

Bench : Single Bench

Advocate : G.C. Bharuka and Ramesh Kumar Agrawal, for the Appellant;

Final Decision : Allowed

Judgement

Anand Pd. Sinha, J.—This application is directed against the impugned order dated 14.3.1983 taking cognizance u/s 7 of the Essential Commodities Act. It appears that petitioner No. 1 is the proprietor of the Firm named and styled as M/s Basudeo Prasad Lallan Kumar having wholesale business of foodgrains at Muzaffarpur. Petitioner No. 2 is the truck driver of a public carrier. On 16.3.1982, 90 bags of maize were being transmitted to the Firm at Lalganj, who happens to be the Commission Agent. However, little away from Muzaffarpur, the truck was intercepted by the Assistant Marketing Officer, Muzaffarpur, who demanded receipt and also permit for the movement of the consignment. Naturally there was neither receipt of purchase or sale nor any permit for the carriage and thus the prosecution has been allowed.

2. It has been rightly argued that if the articles were being taken to the Commission Agent and when there had been a letter of the petitioner No. 1, in that case question of any receipt of sale or purchase did not arise at all. Secondly, when there was no restriction on the movement, the question of any permit also did not arise.

3. Therefore, it appears that the prosecution case is futile and misuse of the

process. The Order dated 14.3.1983 is set aside. This application is, accordingly, allowed.