

(2007) 02 PAT CK 0197

In the Patna High Court

Case No : Criminal Miscellaneous No. 3866 of 2007

Mohan Lal @ Mohan Lal Rajgarihia and Others

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 08-02-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Essential Commodities Act, 1955 — Section 7

Citation : (2007) 2 PLJR 261

Hon'ble Judges : Ghanshyam Prasad, J

Bench : Single Bench

Advocate : N.K. Agrawal and Saket Tiwary, for the Appellant; Gopesh Kumar, for the Respondent

Final Decision : Allowed

Judgement

Ghanshyam Prasad, J.—Heard. This application u/s 482 Cr.P.C. has been filed to quash the order of cognizance dated 2.9.2006 passed by S.D.J.M., Patna City in Special Case No. 38 of 1998 thereby and there under cognizance u/s 7 of the E.C. Act has been taken against the petitioners.

2. It appears that on 31.8.1998, Marketing Officer, Patna City inspected the go down of the petitioners having licence under the Act bearing no. 9. 19/85. The employees of the go down at the time of inspection fled away. The informant inspected the go down in presence of landlord of the go down and seized huge quantity of edible oil without having any valid papers and registers. Accordingly, the case was registered against the petitioners before Malsalami Police Station. The police after investigation submitted charge sheet in the year 1998. However, after lapse of eight years, the court below has taken cognizance against the petitioners in the above case. The submission of the learned counsel for the petitioners is that it is well settled law that the Unification Order for the storage limit in relation to edible oil is not workable and, therefore, no one can be prosecute u/s 7 of the E.C. Act for storage of edible oil. In support of it, the

learned counsel for the petitioners has relied upon several decisions of this Court including the order passed in Cr. Misc. Nos. 1045 of 1988, 2821 of 1994 and Cr. Misc. No. 33256 of 2006.

3. Perused the impugned order as well as the several decisions filed by the learned counsel for the petitioners. On perusal of the aforesaid decisions of this High Court, it is quite clear that the Unification Order in which the storage limits in relation to edible oil have been fixed is not workable as the classification of cities has not yet been done by the Government. Therefore, the dealers are not bound to produce any cash memo or registers with regard to storage of the edible oil for inspection before the competent authority. Thus, having regard to the facts and circumstances of the case as well as the settled law, this application is allowed and the impugned order of cognizance is hereby quashed.