

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 1829 of 2024

1. Rafique Alam @ Rafik Alam, aged about 46 Years, S/o Mansur Alam, R/o Ambatola, Aango, P.O.- Gosaibaliya, P.S.- Barkagaon, District- Hazaribag
2. Kuleshwar Sao @ Kauleshwar Sao, aged about 43 Years, S/o Janak Saw, R/o Village- Nayatand, Gosain Balia, P.O.- Gosain Balia, P.S.- Barkagaon, District- Hazaribag (Jharkhand) Petitioner

Versus

1. The State of Jharkhand
2. In-charge, Block Supply Officer-cum-Jansewak, Barkagaon Block Office, P.O. & P.S.- Barkagaon, District- Hazaribag (Jharkhand) Opposite Parties

For the Petitioner : Mr. Gautam Kumar, Adv.
Mr. Anil Kumar Singh, Adv.
Md. Savita Kumari, Adv.
For the State : Mr. P.D.Agrawal, Spl. PP

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- Heard the parties.

2. This criminal miscellaneous petition has been filed invoking the jurisdiction of this Court under Section 482 of CrPC with a prayer for quashing and setting aside the entire criminal proceeding as well as the order dated 20.02.2024 passed by learned SDJM, Hazaribagh in G.R. case no. 393 of 2024 arising out of Barkagaon P.S. case no. 126 of 2023 whereby and whereunder learned SDJM, has taken cognizance of the offence punishable under Section 7 of the Essential Commodities Act, 1955 against the petitioners.
3. The brief fact of the case is that the villagers of Ango Gram Panchayat apprehended the petitioner no. 2 while he was transporting nine sacks of wheat in his motorcycle and the allegation is that he was doing the same for the purpose of black

marketing, said wheat. The matter was reported to the In-charge, Block Supply Officer-cum- Jan Sevak and on the basis of the written report, submitted by the said the In-charge, Block Supply Officer-cum- Jan Sevak, police registered Barkagaon P.S. case no. 126 of 2023 and took up the investigation of the case. After completion of the investigation, the police submitted chargesheet for having committed the offence punishable under Section 7 of the Essential Commodities Act *inter alia* against the petitioners and vide order dated 20.02.2024 in G.R. case no. 393 of 2024 arising out of Barkagaon P.S. case no. 126 of 2023, learned SDJM, has taken cognizance of the offence punishable under Section 7 of the Essential Commodities Act.

4. Learned counsel for the petitioners relying upon the judgment of this court in the case of **Letares Toppo Alias Letaresh Toppo vs. State of Jharkhand** dated 25.07.2024 in CrMP no. 883 of 2024 submits that wheat is not a controlled item and openly available in market and can be purchased from open market and the learned SDJM, Hazaribagh without application of judicial mind, has taken the cognizance of the offence punishable under Section 7 of the Essential Commodities Act having been committed by the petitioners without any allegation of violation of any control order, hence, it is submitted that the prayer as made in this criminal miscellaneous petition be allowed.
5. Learned Spl. PP fairly submits that there is no material in record to suggest that any Control Order has been violated and further submits that learned SDJM, Hazaribagh has committed grave illegality by taking cognizance of the offence in violation of Section 7 of the Essential Commodities Act, 1955.
6. Having heard the rival submissions made at the Bar and after going through materials available in the record, it is pertinent to mention here that from the plain reading of Section 7 of the Essential Commodities Act, 1955 it is crystal clear that the penalties envisaged under Section 7 (1) of the said Act can only be imposed, if and only if, there is contravention of any order made

- under Section 3 of the said Act and the penalties under Section 7 (2) can be imposed, if a person to whom a direction is given under Clause (b) of subsection (4) of Section 3, fails to comply with the direction but as has fairly been submitted by the learned Spl.P.P. appearing for the State that it has not been disclosed either in the First Information Report or in the charge-sheet or in the order concerned by which cognizance has been taken by the SDJM, Hazaribagh about violation of any order passed under Section 3 of the Essential Commodities Act, for which penalty has been provided for under Section 7 of the said Act nor is there any allegation against the petitioners of not complying with the direction given under Clause (b) of Section 3 (4) of the Essential Commodities Act. Hence, in the considered opinion of this Court, even if the allegations made against the petitioner are considered to be true in its entirety, still the offence punishable under Section 7 of the Essential Commodities Act is not made out against the petitioners.
7. Accordingly, the entire criminal proceeding as well as the order dated 20.02.2024 passed by learned SDJM, Hazaribagh in G.R. case no. 393 of 2024 arising out of Barkagaon P.S. case no. 126 of 2023, is quashed and set aside against the petitioners.
 8. In the result, this Criminal Miscellaneous Petition is allowed and in view of the disposal of this Criminal Miscellaneous Petition, the Interlocutory Application, if any, is disposed of being infructuous.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated, the 6th October, 2025
Smita / AFR

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