

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.16659 of 2011

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1. Radhika Devi W/O Param Sah R/O Pirpainti Bazar, P.S. Pirpainti, Distt. - Bhagalpur
 2. Anil Kumar S/O Mantu Prasad Sah R/O Pirpainti Bazar, P.S. Pirpainti, Distt. - Bhagalpur
 3. Ram Krishna Khetan S/O Sajjanlal Khetan R/O Pirpainti Bazar, P.S. Pirpainti, Distt. - Bhagalpur
 4. Ashok Kumar Kataruka @ Ashok Kumar S/O Manmal Katauka R/O Pirpainti Bazar, P.S. Pirpainti, Distt. - Bhagalpur
 5. Rabindra Kumar S/O Late Dev Naryan Pd. Gupta R/O Pirpainti Bazar, P.S. Pirpainti, Distt. - Bhagalpur

.... Petitioner/s

Versus

1. The State of Bihar
2. Sudhakar Pandey, Block Agriculture Officer, Pirpainti, District Bhagalpur
3. Sanjay Kumar, D.C.L.R., Kahalgoan, P.S. Kahalgoan, Dist. Bhagalpur.

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Bhola Prasad, Advocate.
For the Opposite Party no.1 : Mr. Sanjay Kumar Tiwary, APP.
For the Opposite Party no.2 : Mr. Ravi Kumar Pandey, Adocate.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

7 10-11-2014

Heard the counsels for the parties.

The petitioners are the licensed dealers in fertilizer.

They are sought to be prosecuted in the present case on the basis of a presumption that perhaps the fertilizer obtained by them from the government agency is likely to be sold in black market.

Learned counsel for the petitioner submits that such contingent prosecution is unheard of in criminal jurisprudence. The counter affidavit on behalf of the opposite party no. 2 merely states that the F.I.R. was lodged at the instance of superior officers

of the administration.

Considering the above facts, the order taking cognizance dated 24.03.2011 in connection with Pirpainti P.S. Case No. 6/2011 (G.R. No. 82/2011) under Section 7 of the E.C. Act appears to be misconceived. The same is quashed.

The application is allowed.

(Ashutosh Kumar, J)

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