

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.173 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- MUZAFFARPUR

Md. Ali Khan, son of Md. Noor Alam Khan, Resident of Village Majhauili, P.S. Vaishali, District Vaishali at Hajipur (Bihar), presently posted as Block Agriculture Officer, Kurahani, Muzaffarpur.

.... Petitioner

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Superintendent of Police, Muzaffarpur (Bihar).
3. The District Magistrate, Muzaffarpur, District Muzaffarpur (Bihar).
4. The Additional Collector, Muzaffarpur, District Muzaffarpur (Bihar).
5. The Managing Director, Bihar State Food & Civil Supplies Corporation, Sone Bhawan, Bir Chand Patel Marg, Patna.
6. The District Manager (Informant), Muzaffarpur, Bihar State Food & Civil Supplies Corporation Limited, Chandralok Market, Naya Tola, Muzaffarpur, District Muzaffarpur (Bihar).
7. The District Supply Officer, Muzaffarpur, District Muzaffarpur (Bihar).
8. The Investigating Officer, Kurhani Police Station, District Muzaffarpur (Bihar).

.... Respondents

Appearance :

For the Petitioner : Mr. B.P. Pandey, Sr. Advocate
Mr. Rakesh Kumar, Advocate
For the Respondents : Mr. Kaushal Kishor, AC to GP 23
For B.S.F.C. : Mr. Shailendra Kr. Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 22-04-2015

Heard learned counsels for the parties.

2. The present writ petition has been filed with a prayer for quashing the first information report of Kurhani (Turki O.P.) Police Station Case No.25 of 2015 (G.R. No.201 of 2015) registered under Sections 409 and 420 of the Indian Penal Code and for other connected reliefs.

3. It is submitted on behalf of the petitioner that even on bare perusal of the first information report which is based on letter



no.164 dated 02.02.2015 of the District Manager, Bihar State Food & Civil Supplies Corporation Limited, that no criminal offence whatsoever is made out against the petitioner and at the very highest, it may have been a case for initiation of a departmental proceeding but no more. Even assuming for the time being that the petitioner failed to carry out the duty of purchase of paddy which he was required to do upon deputation, by no stretch of imagination, could the same invite criminal liability. This assumes greater significance in the backdrop of the letter no.1869 dated 02.05.2012 issued by the Chief Secretary, Government of Bihar directing that the Block Agriculture Officers should not be deputed for non-agricultural work without orders of the Government. The said letter was reiterated by the Principal Secretary in his letter contained in Memo No.914 dated 31.07.2014 as well as by the Director, Agriculture in his letter contained in Memo No.21 dated 09.01.2015. This Court in CWJC No.1097 of 2015 by its order dated 09.02.2015 has also observed that the District Magistrate has an obligation to carry out the directions of the Director, Agriculture, Government of Bihar contained in the aforesaid Memo No.21 dated 09.01.2015.

4. A counter affidavit has been filed on behalf of the respondent no.2, inter alia, stating that the petitioner had deliberately disobeyed the order of the District Magistrate and had been willfully

absent from the meeting held under the Chairmanship of the District Magistrate on 05.01.2015 and 01.02.2015 and had thus offended Sections 188/353 of the Indian Penal Code.

5. From the abovementioned materials on record, it is evident that the order of the District Magistrate was against the directions of the superior officers, as observed by this Court earlier, as mentioned above. This Court is of the view that the actions / inactions imputed to the petitioner do not attract the provisions of Sections 188/353 of the Indian Penal Code, and no offence thereunder is made out against him.

6. In the above circumstances, the first information report of Kurhani (Turki O.P.) Police Station Case No.25 of 2015 (G.R. No.201 of 2015) registered under Sections 409 and 420 of the Indian Penal Code is hereby quashed. The writ petition stands allowed.

(Vikash Jain, J)

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