

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.8397 of 2015

Arising Out of PS.Case No. -268 Year- 2013 Thana -DUMRAUN District- BUXAR

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1. Baban Chaudhary @ Baban Chodhary S/o Basudeo Chaudhary resident
of village - Purana Bhojpur, P.S. Dumraon, District - Buxar

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Singh, Advocate.

For the Opposite Party/s : Mr. R.S.Choudhary(App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 03-03-2015 Heard both sides.

The petitioner apprehends his arrest in Dumraon P.S.
Case No. 268 of 2013, registered for the offences punishable
under Sections 409 and other Sections of the Indian Penal Code.

The informant district manager, S.F.C. alleged that the
petitioner received 5500.00 quintals of paddy and he had to
delivere 3685.00 quintals of rice, but the petitioner deposited only
1886.95 quintals C.M. rice and the petitioner has not returned
remaining rice thereby he misappropriated a sum of Rs.
34,21,915.28/-.

Learned counsel for the petitioner submits that there
was an agreement between the S.F.C. and the petitioner. The
S.F.C. was authorized to deliver the paddy to the rice mill of the

petitioner and after milling the paddy S.F.C. was obliged under the agreement to lift the rice from the rice mill of the petitioner, but the informant did not lift the rice from the mill of the petitioner and the same is still lying in the premises of the petitioner.

Learned counsel for the petitioner submits that a demand notice was served on the petitioner and the petitioner came before this Court in C.W.J.C. No. 15460 of 2014. The aforesaid writ petition was disposed of vide order dated 10.09.2014 holding that notice under P.D.R. Act is not legal as it amounts to violation of the agreement between the S.F.C. and the owner of the rice mill. Accordingly, the demand notice was quashed. The S.F.C. should have filed suit for breach of contract, but instead of filing civil suit, S.F.C. filed this criminal case. The petitioner is still ready to deliver the entire remaining rice/paddy according to the agreement.

It appears that according to the agreement the S.F.C. was to lift the rice after milling the paddies from the rice mill of the petitioner, but instead of lifting the rice the S.F.C. firstly sent demand notice and when the same was quashed lodged the present case. The petitioner is still ready to deliver the remaining rice and the paddies.

Considering the facts aforesaid the petitioner, in the

event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Buxar in connection with Dumraon P.S. Case No. 268 of 2013, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Prabhat Kumar Jha, J.)

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