

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.587 of 2015

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

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Mahendra Sharma, son of Sr Balmiki Sharma, resident of Village - Upahara, Police Station- Upahara, District- Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar through Director General of Police, (Home Police), Bihar, Patna.
2. The District Magistrate, Auranabad.
3. The Superintendent of Police, Aurangabad.
4. The Officer-in-Charge, Upahara Police Station, Aurangabad.
5. The District Manager, Bihar State Food Corporation, Aurangabad.
6. Sri Devendra Kumar, S/o- Shri Kashi Prasad, In-charge, Paddy Purchase Centre, Goh, P.S.- Upahara, District- Aurangabad.

.... Respondents

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Appearance :

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

For the Respondent-State : Mr. Ravindra Kumar, AC to AAG-10

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 21-07-2016

Heard learned counsel for the petitioner and learned counsel for the State.

By way of the present application preferred under Articles 226 & 227 of the Constitution of India, the petitioner seeks quashing of first information report of Upahara P.S. Case No. 37 of



2015 dated 22.04.2015 registered under Sections 406 and 409 of the Indian Penal Code. The ground for seeking quashing of the FIR is that prior to the institution of the FIR in question, the District Manger, Bihar State Food and Civil Supplies Corporation Ltd., Aurangabad had already instituted an FIR against the petitioner vide Upahara P.S. Case No. 68 of 2012 dated 06.12.2012 in respect of the same set of incident.

I have perused the contents of the two FIRs. The allegations are not identical. The quantity of customed mill rice alleged to have been defalcated by the petitioner in the aforesaid two FIRs is quite different.

From the pleading made by the counsel for the State, it would also appear that the investigation had already reached a final stage and a report under Section 173(2) of the Code of Criminal Procedure was also filed before the court. However, after filing of the police report under Section 173(2) of the Code of Criminal Procedure, the investigating officer came to know about some new facts and, therefore, a prayer was made before the court seeking permission for further investigation into the matter.

In view of the stage of the investigation as also the offence alleged in the aforesaid two FIRs being separate and distinct, I am not inclined to accede to the prayer of the petitioner at

this stage.

Accordingly, the application is disposed of with liberty to the petitioner to agitate all the points available to him in case, ultimately, on completion of investigation, the investigating agency submits an adverse report against him.

It is made clear that this Court has not gone into the merit of allegation made in the FIR.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	
CAV DATE	
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