

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.60 of 2016

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

1. Sanjay Kumar Shahi Son of Late Ramji Shahi, Resident of village- Patedha, P.S. Maharajganj, District- Siwan, Bihar

.... Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Home, Government of Bihar, Old Secretariat, Patna
2. The Principal Secretary, Home, Government of Bihar, Old Secretariat, Patna
3. The Director General of Police, Bihar, Old Secretariat, Patna
4. The Superintendent of Police, Buxar
5. The Officer In Charge, Brahampur Police Station, Buxar
6. The State of Bihar, through Principal Secretary, Food & Consumer Protection Department, Government of Bihar null null
7. The Principal Secretary, Food & Consumer Protection Department, Government of Bihar, Patna
8. The Bihar State Food and Civil Supplies Corporation Limited, through its Managing Director
9. The Managing Director, Bihar State Food & Civil Supplies Corporation Limited null null
10. The District Manager, Bihar State Food & Civil Supplies Corporation Limited, District Buxar

.... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Surendra Kumar Singh Mr. Avinash Shekhar
For the State	:	Mr. Anil Kumar Singh, GP 26 Mr. Arvind Kumar Singh, AC to GP 26
For BSFC	:	Mr. Prabhat Kumar Singh

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 04-08-2016

Heard learned Counsel for the parties concerned.

This application has been filed for quashing of the First Information Report of Brahampur Police Station Case No. 181 of 2015, disclosing offences under Sections 406, 409 and 420 of the Indian Penal Code.

Upon perusal of the First Information Report, I find that it cannot be quashed in exercise of power under Articles 226 and 227 of the Constitution of India, since the allegations make out cognizable offence under the Indian Penal Code.

It further appears that the petitioner had earlier approached this Court for grant of anticipatory bail, vide Criminal Misc. No. 49092 of 2015, which came to be rejected by an order, dated 05.11.2015. Evidently, while rejecting the anticipatory bail application, this Court had found criminal offence to have been made out on the basis of the allegations made in the First Information Report.

Learned Counsel appearing on behalf of the petitioner has submitted that a certificate case proceeding is pending in relation to the same transaction and, therefore, this First Information Report deserves to be quashed.

The submission cannot be accepted. The certificate case must have been instituted for recovery of the amount, which, according to the concerned authorities, was misappropriated by the petitioner. The institution of a certificate case cannot, in any manner, affect institution of a criminal case on the basis of same set of facts.

Learned Counsel representing the Bihar State Food Corporation has relied on a decision of this Court, in the

case of **M/s Jai Mata Di Rice Mill and Others v. The State of Bihar and Others**, reported in **2015 (4) BBCJ V-335**.

Considering the submissions, as above, I do not find any merit in this application.

This application is accordingly dismissed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
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