

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.861 of 2016

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

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Md. Mumtaj Alam @ Mumtaj Akhtar, son of Isha Ansari, Chairman, Pachahi Panchayat PACCS, P.S.-Madhepur, District- Madhubani

.... Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Home Department, Government of Bihar, Patna
2. The Director General of Police, Bihar, Patna
3. The Inspector General, Darbhanga Zone, Darbhanga
4. The Deputy Inspector General, Darbhanga Zone, Darbhanga
5. The District Magistrate, Madhubani
6. The Superintendent of Police, Madhubani
7. The District Co - Operative officer, Madhubani
8. The Sub - Divisional Police Officer, Jhanjharpur, District Madhubani
9. The Co-Operative Extension Officer Lakhsaur, Madhepur Block-Lakhsaur, District Madhubani
10. The Station House officer, Madhepura, District Madhubani
11. Mahendra Kumar Mahto, Chairman - Cum - Miller, Deep Purvi Panchayat PACCS Ltd. Block Lakhsaur, Police Station Bheja, District Madhubani

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shivendra Kumar Sinha, Advocate

For the Respondent/s : Mr. Prabhat Kumar Verma, AAG 3

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CORAM: HONOURABLE THE CHIEF JUSTICE

JUDGMENT AND ORDER

CAV

Date: 26-09-2016

The petitioner is the Chairman of the Primary Agricultural Co-operative Credit Society (in short "PACCS") under Pachahi Panchayat and, in terms of the scheme of the government, the PACCS purchased paddy from the farmers of the said Panchayat, for the year 2015-16, as has been directed by the District Co-operative Officer, Madhubani.



The total quantity of the purchased paddy was 848.00 quintals. After having purchased the paddy, according to the case of the petitioner, the PACCS handed over the paddy to M/s Deep Purbi Panchayat PACCS Rice Mill, ear-marked by the State Food Corporation as the registered Miller. Delivery of the paddy to the said Miller was made by the Chairman, in terms of an agreement, which had been entered into, on 22.01.2016, between the said Miller, on the one hand and the petitioner as Chairman of PACCS, Pachahi Panchayat, on the other hand.

Though the Miller was required to convert the paddy into rice and supply the rice to the tune of 568.16 quintals, the Miller had till date, according to the writ petitioner, supplied merely 236.96 quintals of rice and the petitioner has already delivered the same to the State Food Corporation, which is the nodal agency, and payment has been, accordingly, made by the State Food Corporation.

It is the case of the petitioner that 331.20 quintals of rice is still required to be delivered by the Miller and though the petitioner has, time and again, approached and reminded the Miller to supply the rice, the Miller has not done so. On the other hand, a case has been registered against the petitioner and others for misappropriation of the paddy/rice giving rise to Madhepur Police Station Case No.45 of 2016 under Sections 420, 467, 468, 406, 120-B of the Indian Penal Code.

The petitioner, with the help of the present application made under Article 226 and 227 of the Constitution of India, seeks quashing of Madhepur Police Station Case No.45 of 2016 aforementioned.

I have heard Mr. Shivendra Kumar Sinha, learned counsel appearing, on behalf of the petitioner and Mr. Prabhat Kumar Verma, AAG 3, appearing on behalf of the State.

In view of the fact that it is yet to be determined by investigation agency if the defence of the petitioner that he had handed over the purchased paddy to the Miller and it is the Miller, who is at fault, is true or not, which is an aspect, which can be determined only by investigation and, at this stage, the assertion of the petitioner that it is the Miller, who had committed, misappropriation, if any, needs to be looked into by the investigating agency.

Considering, therefore, the matter in its entirety and in the interest of justice, it is hereby directed that while investigating the case aforementioned, the Investigating Officer shall look into the defence of the petitioner for the purpose of determining the guilt or otherwise of the accused persons involved in the case.

Needless to say that if the petitioner's assertions are found to be true, the petitioner cannot be made an accused nor can he be put on trial.

In terms of the above observations and directions, this application shall stand disposed of.

Let a copy of this order be communicated to the Superintendent of Police, Madhubani, for its onward communication to the Investigating Officer concerned.

(I. A. Ansari, CJ)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	16.09.2016
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