

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 499 of 2015

Arising out of P.S. Case No. - Year - Thana - District - SASARAM (ROHTAS)

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Yashwant Singh @ Yaswant Singh @ Yaswant Kumar Singh, Son of Late Jwala Prasad Singh, proprietor of M/s Jai Bala Jee Rice Mill, Resident of Village - Nekra, P.S. - Agrer, District - Rothas (Sasaram)

.... Petitioner

Versus

1. The State of Bihar through District Magistrate, Rohtas at Sasaram
2. The District Manager, Bihar State Food Corporation, District - Kaimur (Bhabua)

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Sumeet Kumar Singh, Advocate Mr. Abhiprav Singh, Advocate Mr. Satyendra Prasad Singh, Advocate
For the State	:	Mr. Harish Kumar, G.P.-XXIII
For the BSFC	:	Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 08-02-2017

The sole petitioner has challenged, his criminal prosecution in two cases for the same act alleged to be a criminal act, in this application under Articles 226 and 227 of the Constitution of India.

2. The petitioner is the proprietor of M/s Jai Bala Jee Rice Mill situated at Nekra (Sasaram). The petitioner was provided with paddy, in the year 2011-12 for the purpose of milling, by the State Food Corporation. The petitioner was to mill it and provide 67% of the total paddy in the form of rice. The petitioner could provide 5670 quintals rice only and the remaining rice was, allegedly, misappropriated. With aforesaid allegation one Baidya Nath Mahto, the Block Supply Officer, Sasaram lodged Sasaram (Agrer) Police Station Case No. 830 of 2012



under Section 409 Indian Penal Code against the petitioner.

3. Subsequently, Sasaram (Agrer) Police Station Case No. 382 of 2015 was lodged against the petitioner on the written report of Dinesh Kumar Singh, the District Manager of State Food Corporation for offences under Sections 406, 420 and 409 Indian Penal Code with allegation that the petitioner was provided with paddy in the year 2011-12 i.e. the year of the first FIR for the purpose of milling under an agreement. The petitioner could not provide the entire rice as agreed and, as such, cheated to the complainant. There is only some difference of quantity of the paddy in the two FIRs. However, the period is same. In one financial year only once the paddy is provided to one miller which is not in dispute.

4. Submission of the petitioner is that perusal of the two FIRs would reveal that for the same cause of action both the FIRs have been lodged and the subsequent FIR violates the fundamental rights of the petitioner under Articles 14, 20 and 21 of the Constitution of India. Petitioner has placed reliance on the case of **Amitbhai Anilchandra Shah Versus Central Bureau of Investigation And Another** reported in **2013(6) SCC 348**.

5. On the other hand, learned counsel for the State submits that the police has already submitted charge-sheet in both the cases, hence, both the cases may be directed to be heard together instead of



quashing the subsequent criminal prosecution.

6. Paragraph 59 of the above judgment is being reproduced below:-

“..... we are of the view that filing of the second FIR and fresh charge-sheet is violative of fundamental rights under Articles 14, 20 and 21 of the Constitution since the same relate to alleged offence in respect of which an FIR had already been filed and the court has taken cognizance”

7. There is no dispute that both the FIRs in the present case relates to the same crime alleged against the petitioner, hence, subsequent FIR bearing Sasaram (Agrer) Police Station Case No. 382 of 2015 and the criminal proceedings in pursuance of the said FIR including the charge-sheet is violative of the fundamental rights of the petitioner guaranteed under Articles 14, 20 and 21 of the Constitution of India. Therefore, subsequent FIR of Sasaram (Agrer) Police Station Case No. 382 of 2015 and the entire proceeding stands quashed and the writ application is, accordingly, allowed.

(Birendra Kumar, J)

Kundan

AFR/NAFR	
CAV DATE	
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