

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 799 of 2016

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

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Tarkeshwar Kumar, Son of Nandu Prasad Verma @ Minu Prasad Verma,
Proprietor of M/s Om Udyog Rice Mill, Resident of Village - Laxmipur,
Raghunathpur, Police Station - Turkauliya, District - East Champaran

.... Petitioner

Versus

1. The State of Bihar through the District Magistrate, Sitamarhi, District - Sitamarhi.
2. The District Manager, Bihar State Food and Civil Supplies Corporation Ltd., Sitamarhi, District - Sitamarhi.

.... Respondents

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Appearance :

For the Petitioner : Mr. Summet Kumar Singh, Advocate

For the State (Res. 1) : Mr. Rohitabh Das, A.C. to A.A.G. 10

For the Res. 2 : Mr. Mayank Shekhar, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 02-11-2017

Heard learned counsel for the parties.

The petitioner has invoked the jurisdiction of this Court under Article 226 and 227 of the Constitution of India for quashing the FIR of Dumra P.S. Case No. 91 of 2015 registered under Sections 406, 409 and 420/34 of the Indian Penal Code against different millers.

The petitioner claims to be proprietor of Om Udyog Rice Mill, Motihari named at serial no. 10 of the written report. The FIR was lodged when the mill of the petitioner and others delayed in payment of the dues of CMR.

Contention of the petitioner is that the counter affidavit filed by respondent no. 1 and 2 separately would reveal that the petitioner had already deposited entire dues amount, as such, the



continuance of the criminal proceeding would amount to an abuse of process of the Court. In para 3 of the counter affidavit filed by respondent no. 2, it is stated as follows “that it is humbly stated that the answering opposite party vide letter no. 1037, dated 17.04.2015 had written to the Officer-in-Charge, Dumra that the petitioner has deposited his entire dues, hence, this case may kindly be closed”. Respondent no. 1 in the counter affidavit vide para 6 stated as follows “that on verification of the records, the District Manager, State Food Corporation, Sitamarhi found that the petitioner had already deposited his entire dues and there was no outstanding dues of CMR against the paddy received by his mill pending to be deposited by the petitioner and so the District Manager, State Food Corporation, Sitamarhi wrote letter no. 1037, dated 17.04.2015 to the Officer-in-Charge, P.S. Dumra, Sitamarhi to drop the case against the petitioner”.

The continuance of the criminal proceeding, in the circumstance, would amount to abuse of the process of the Court.

Hence, the impugned FIR stands quashed against this petitioner only and this writ application stands allowed to the aforesaid extent.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
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