

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27698 of 2017

Arising Out of PS.Case No. -207 Year- 2017 Thana -DARBHANGA SADAR District-
DARBHANGA

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Sunil Kumar Singh Son of Ram Parikshan Singh, Proprietor M/s Maa Shyama Rice Mill, P.O.- Mabbi, P.S.- Sadar, District- Darbhanga, resident of Village- Mabbi, P.S.- Sadar, District- Darbhanga.

.... Petitioner

Versus

1. The State of Bihar.
2. The District Manager, State Food Corporation, Darbhanga, Bihar.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Jitendra Singh, Sr. Advocate
Mrs. Bela Singh, Advocate

For the State : Mr. Jharkhandi Upadhyay, APP

For the Opposite Party no.2: Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 19-07-2017

Heard Mr. Jitendra Singh, learned Senior Advocate
for the petitioner. Mr. Jharkhandi Upadhyay, learned Additional
Public Prosecutor for the State and Mr. Shailendra Kuamr Singh,
learned Advocate for the Bihar State Food and Civil Supplies
Corporation Ltd.

2. This application under Section 482 of the Code of
Criminal Procedure has been filed for quashing the first information
report of Darbhanga Sadar P.S. Case No.207 of 2017 dated



19.05.2017 registered for the offence punishable under Section 409 of the Indian Penal Code.

3. Mr. Jitendra Singh, learned Senior Advocate appearing for the petitioner has submitted that the allegations made in the First Information Report (for short 'the FIR') do not disclose commission of any cognizable offence. He has submitted that the dispute is purely of civil in nature, as it arises from violation of a contract. He has submitted that there is nothing to show that the paddy entrusted to the petitioner was misappropriated. In support of his submission, he has tried to draw my attention towards certain documents annexed to the present application.

4. On the other hand, Mr. Shailendra Kumar Singh, learned counsel appearing for the Bihar State Food and Civil Supplies Corporation Ltd. has submitted that the allegations made in the FIR clearly attract the ingredients of the offence punishable under Section 409 of the Indian Penal Code. He has submitted that paddy worth Rs.2,85,80,177.92 was entrusted to the petitioner for milling, but the petitioner failed to return the custom milled rice. According to him, as the petitioner was in possession of the paddy supplied by the corporation, his failure to return custom milled rice would *prima facie* indicate commission of the offence of misappropriation. He has submitted that a multi-crore paddy scam causing huge loss to the State exchequer has taken place in the State



of Bihar for which more than one thousand cases having identical allegation have been registered in various police stations situated in different districts of the State of Bihar. He has submitted that several writ petitions having been filed before this Court for quashing the FIR or order of cognizance by the accused persons with similar allegation were heard analogous by this Court and this Court vide order dated 05.10.2015 passed in Cr.W.J.C. No.931 of 2015 [*M/s Jai Mata Di Rice Mill & Ors. Vs. the State of Bihar & Ors.* reported in *2015(4) BBCJ V-335*] not only dismissed all those writ petitions, but also directed the Superintendent of Police of respective districts to personally supervise and monitor the investigation of those cases.

5. I have heard learned counsel for the parties and perused the record.

6. I find substance in the argument of the learned counsel appearing for the Bihar State Food and Civil Supplies Corporation Ltd. The allegations made in the FIR do attract the ingredients of a cognizable offence. It is settled proposition in law that to hold investigation into a cognizable offence is the statutory right of the police. At this stage, the Court has no role to play. Moreover, at the stage of investigation, the defence documents cannot be made the base for interdicting a prosecution case as the admissibility of those documents have not been tested during trial.



Furthermore, the issue raises in the present application is no more *res integra*. This Court had an occasion to deal with similar submissions made by the petitioner in ***M/s Jai Mata Di Rice Mill. and analogous cases*** (Supra) and after examining the facts and law in detail, it had come to the conclusion that FIRs should not be quashed as they were nascent documents, averments of which could have taken tangible shape only after completion of the process of investigation.

7. Keeping in mind the allegations made in the FIR and the ratio laid down in ***M/s Jai Mata Di Rice Mill. and analogous cases*** (Supra), I am of the considered opinion that no case for quashing of the FIR is made out. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.07.2017
Transmission Date	26.07.2017

