

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.34173 of 2014

Arising Out of P.S.Case No. -265 Year- 2013 Thana -SAMASTIPUR District- SAMASTIPUR

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Rajeev Kumar S/o Rameshwar Prasad Singh Resident of Village - Sihma, P.S. -
Matihani, Distt. - Begusarai.

.... Petitioner

Versus

1. The State of Bihar represented through the Chief Secretary, Govt. of Bihar,
Patna
2. Ashok Kumar Singh, Dy. Manager, State Food Corporation, Samastipur.

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Vivekand Prasad Singh, Advocate
For the Opposite Parties : Mr. Parmeshwar Mehta, APP.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 24-08-2017

This application under Section 482 of the Cr.P.C. has been
filed to quash the FIR of Samastipur (Town) P.S.Case No.265 of 2013
registered for the offence under Sections 407, 419, 420, 467, 468 and
471 of the IPC.

2. Heard and perused the record.

3. The facts in brief is that the Deputy Manger of State Food
Corporation, Samastipur lodged an FIR alleging therein that this
petitioner had entered into an agreement with the District Manager
(SFC). The petitioner being transport agent in course of transportation
of rice lifted 810 quintals of rice through three drafts which were not
delivered as per Chalan and thereby caused loss to the tune of



Rs.15,41,535/- to the Bihar State Food Corporation.

4. The learned counsel for the petitioner submits that as per clause 21 of the agreement between the parties, the District Manager was entitled to act in the event of any default from the side of the petitioner. The first party was entitled to engage any other agency for transportation purpose and also to recover the losses sustained on this count from the pending bills or from the security money or from the sureties and lastly by certificate proceeding under the Bihar & Orissa Public Demand Recovery Act, 1914 and rules made there under without prejudice to any other lawful mode of recovery. The SFC had right to forfeit the amount of bond and to confiscate the cash deposit or securities, so deposited by the second party. The alleged loss caused to the SFC has been adjusted by the SFC from the bills of this petitioner. The SFC vide letter no.3824 dated 26.10.2013 has informed the higher authority regarding deduction of Rs.19,68,300/- from the outstanding bill of this petitioner to the tune of Rs.68,31,271/-. After adjustment of said amount, the SFC has nothing to recover from the petitioner and so no case under Sections 419, 407, 420, 467, 468 and 471 IPC is made out. In view of settlement of defalcated amount through adjustment, the criminal prosecution of the petitioner would be an abuse of the process of the Court and so the FIR is fit to be quashed.



5. The learned APP opposed the prayer. He drew attention of this Court to the annexures on record. It has been submitted that the petitioner has filed a criminal case bearing no.155 of 2013 for the offence under Sections 406, 409 and 420 of the IPC against the then Superintendent of State Food Corporation, Samastipur alleging therein that the then Superintendent has defalcated CMR (rice) which are the subject matter of Town P.S.Case No.265 of 2013. He submits that both the criminal cases filed against each other is under investigation and so the same cannot be quashed under inherent jurisdiction of this Court under Section 482 of the Cr.P.C. This application is devoid of merit and so the same is fit to be quashed.

6. On perusal of FIR of Town P.S.Case No.265 of 2013, I find that the Deputy Manager of SFC has specifically alleged that this petitioner in course of transportation received rice weighing 810 quintals worth Rs.15,41,435/- as the same was not sent to the destination. The petitioner on the other hand alleged that the then Superintendent of SFC has defalcated the rice which were being transported by this petitioner. Both the cases are pending for investigation and at this stage this petitioner has no locus standi to interfere with the investigation. The petitioner is supposed to cooperate the investigation and place all the materials relating to the case.



7. In view of the above facts, I do not find any merit in this application and is accordingly dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	29.08.2017
Transmission Date	29.08.2017

