

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.30291 of 2016

Arising Out of PS.Case No. -129 Year- 2015 Thana -KISHANGANJ District- KISANGANJ

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Monazirul Islam @ Munajirul Islam, Son of Mohitur Rehman, Resident of Akbal Colony Paschim Pali, P.S. – Kishanganj, District – Kishanganj (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar Through District Magistrate, District-kishanganj
2. The Bihar State Food and Civil Supplies Corporation Ltd., through its M.D., Bihar at Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sumeet Kumar Singh

For the Opposite Party/s : Mr. Smt. Anusuiya Jaiswal

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

04/ 17-04-2017

Heard learned counsel for the petitioner and

Mr. Vikash Kumar, learned counsel for Bihar State Food and Civil Supplies Corporation Limited.

The present application has been filed for quashing the order dated 17.03.2016 passed by learned Chief Judicial Magistrate, Kishanganj in Kishanganj P.S. Case No. 129 of 2015, whereby processes have been directed to be issued after cognizance being taken for the offences punishable under Sections 406, 409 and 420 of the Indian Penal Code.

The prosecution case is that Hari Prasad Singh, Proprietor of M/s Sameshwar Rice Mill entered into an agreement with B.S.F.C. for lifting and processing the paddy



during procurement year 2012-13 and he was given 4630.00 quintals of paddy for processing and the rice mill was supposed to supply 67% processed rice against the paddy supplied to the tune of 3102.00 quintals of CMR but he deposited only 1617.30 quintals of CMR by 31.12.2013 and therefore, he misappropriated 1484.80 quintals of CMR worth Rs.32,15,424.00/-. At the relevant time the petitioner was the District Manager of Kishanganj Unit of B.S.F.C. Though, the petitioner was not named in the formal part of the FIR, but on conclusion of the investigation the petitioner was charge sheeted and on perusal of the materials collected during investigation and charge sheet the impugned order dated 17.03.2016 has been passed issuing summon against the petitioner.

It is submitted by learned counsel for the petitioner that the petitioner was not named in the FIR and the predecessor in office of the petitioner has maliciously implicated the petitioner. The thrust of accusation is against the proprietor of the rice mill.

In view of this Court, under the Cr.P.C., it is not necessary that a person is made accused only when he is named in the FIR. In a given situation, even the person who launches the case being the informant, can be made accused if, during investigation, it is found that the prima facie case is



made out against him. Hence, this contention of learned counsel for the petitioner that he was not named in the FIR appears to be misconceived.

At the stage of exercising jurisdiction under Section 190(1)(b) Cr.P.C. the court has only to see the prima facie case for the purposes of taking cognizance. The added advantage to the learned Magistrate at this stage is that there is a police report containing the materials collected during investigation submitted under Section 173(2) Cr.P.C. Hence, this Court finds no infirmity in the order impugned.

The impugned order was passed on 17.3.2016 but there is nothing on record to suggest the present stage of the case.

Hence, this application is disposed of with liberty to the petitioner to raise all the contentions at the appropriate stage of proceeding.

(Dinesh Kumar Singh, J)

DKS/-Anil/

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